

ORDINANCE NO. 447 OF THE CITY OF BUCKHANNON, AMENDING, MODIFYING, AND RE-ENACTING ORDINANCE NO. 409 (ALSO KNOWN AS ORDINANCE NO. 2016-008), ORDINANCE NO. 422, AND ORDINANCE NO. 435 OF THE CITY OF BUCKHANNON, WITH RESPECT TO ENFORCEMENT THEREOF

WHEREAS, pursuant to Chapter 8, Article 12, Section 5 of the West Virginia Code, as amended, municipalities are granted plenary power and authority to regulate streets, avenues, roads, ways, sidewalks, crosswalks and public spaces belonging to the municipality and to regulate the conditions under which they may be made within the corporate limits; and,

WHEREAS, the Council of the City of Buckhannon has deemed it to be reasonable and appropriate to amend its ordinances regulating the enforcement of its parking ordinances; and,

WHEREAS, the Council of the City of Buckhannon deems it to be reasonable and appropriate to make certain amendments and changes to the parking rules and regulations on certain public streets and in certain designated lots within the municipality.

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

That the provisions of Ordinance No. 409 (also known as Ordinance No. 2016-008), Ordinance No. 422, and Ordinance No. 435 are deemed amended and reenacted as follows:

ARTICLE I – VIOLATIONS; WARNINGS; SEPARATE VIOLATIONS

The operator of any vehicle parked in violation of Article II of Ordinance No. 435 shall be fined, for a first citation during a given calendar year, the sum of twenty-five dollars (\$25.00); for a second citation during a given calendar year the sum of fifty dollars (\$50.00); and for a third, or subsequent, citation during a given calendar year the sum of one hundred dollars (\$100.00); *Provided*, that violators shall be entitled to receive, during any period of time beginning January 1 of a given year and December 31 of the same year, two (2) warnings of violation, except that no violator shall be entitled to receive more than one warning within any 24-hour period. The warning is deemed issued when a notice of violation is served upon the operator or owner of the vehicle by any means provided in Article II of this ordinance. No subsequent warning or notice is required prior to the issuance of a citation.

The failure of an operator to remove a vehicle parked in violation of Article II of Ordinance No. 435 from the same parking space within two hours following the actual issuance of a warning or citation by the Parking Enforcement Officer or other duly

appointed enforcement official shall constitute a separate violation of this Ordinance and Article II of Ordinance No. 435.

The removal of a vehicle parked in violation of Article II of Ordinance No. 435 to an adjacent parking space, or to any parking space on the same street on which the violator was parked in such violation, shall not commence a new two-hour period of time under said Ordinance No. 435.

No violation of this Ordinance, or any other Ordinance amended hereby, shall be punishable by any term of imprisonment or incarceration.

ARTICLE II – NOTICE OF VIOLATIONS

Notice of any violations of this Ordinance, or any Ordinance modified hereby, whether such Notice is a warning or a citation, may be served upon violators by:

- a) United States Mail, first class postage prepaid; or,
- b) The placement of the Notice of Warning or the Citation upon the windshield of the violating vehicle, or upon such other conspicuous place which may be readily apparent to the operator of the vehicle; or,
- c) By personal service upon the operator of the vehicle.

A Certificate of Service executed by the Parking Enforcement Officer, or other duly appointed enforcement official, and included within the citation file shall be sufficient evidence of service upon the violator.

ARTICLE III – EFFECT UPON OTHER MUNICIPAL ORDINANCES:

The provisions of Ordinance Nos. 409, 422, and of the City of Buckhannon not amended hereby, or particular terms thereof not modified by the terms of this Ordinance, shall remain in full force and legal effect.

ARTICLE IV – 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 V – EFFECTIVE DATE:

This Ordinance shall be deemed effective thirty (30) days following the third (3rd) reading, passage and adoption by the Council of the City of Buckhannon, i.e., January 2, 2021.

FIRST READING: November 5, 2020

SECOND READING, November 19, 2020

PUBLIC HEARING, THIRD READING,
PASSAGE AND ADOPTION: December 3, 2020



Robert N. Skinner, III, Mayor

CERTIFICATE OF ENACTMENT

I, Randall Sanders, City Recorder, do hereby certify that the foregoing Ordinance No. 447 was lawfully ordained and enacted by the Council of the City of Buckhannon at a regular session of the said Council assembled on December 3, 2020.



Randall Sanders, City Recorder