

ORDINANCE NO. 377 OF THE CITY OF BUCKHANNON, AN ORDINANCE:
(1) ADOPTING THE NFPA 1, aka THE NATIONAL FIRE CODE (2009 EDITION);
(2) ADOPTING THE NFPA 70, aka THE NATIONAL ELECTRICAL CODE (2008 EDITION); (3) ADOPTING THE NFPA 101, aka THE NATIONAL LIFE SAFETY CODE (2009 EDITION); (4) DEFINING ELECTRICAL STANDARDS AND INSPECTIONS;
(5) ESTABLISHING NEW FEES FOR ELECTRICAL INSPECTIONS;
(6) ESTABLISHING THE CITY'S STRUCTURAL, ELECTRICAL SAFETY COMMITTEE;
AND (7) AMENDING ORDINANCE NO. 245 OF THE CITY OF BUCKHANNON

WHEREAS, the State of West Virginia by and through its Fire Marshal has duly adopted the National Fire Protection Association's NFPA 1, also known and referred to as the National Fire Code (2009 edition); and,

WHEREAS, the State of West Virginia further by and through its Fire Marshal has duly adopted the National Fire Protection Association's NFPA 70, also known and referred to as the National Electrical Code (2008 edition); and,

WHEREAS, the State of West Virginia further by and through its Fire Marshal has duly adopted the National Fire Protection Association's NFPA 101, also known and referred to as the National Life Safety Code (2009 edition); and,

WHEREAS, the Council of the City of Buckhannon believes that the adoption of all of the foregoing NFPA 1, NFPA 70, and NFPA 101 by the City of Buckhannon, insofar but insofar only as the provisions of each of the foregoing Codes apply to electrical inspections, shall best protect the residents of the City of Buckhannon from accidents including fires resulting from improper electrical installation and repair; and,

WHEREAS, the accompanying inspections that are necessitated by the adoption of the foregoing NFPA Codes shall be substantially more involved and labor intensive to administer than previous inspections conducted by the City of Buckhannon; and,

WHEREAS, the inspection fees particularly respecting electrical inspections as were established pursuant to Article II, Section 3 of Ordinance No. 245 in 1988 are insufficient to adequately cover the City's expense to pay for the new inspections to be administered pursuant to the provisions of this Ordinance; and,

WHEREAS, Chapter 8, Article 12, Section 5(13) of the West Virginia Code, grants plenary power and authority unto the City of Buckhannon's governing body to prevent injury or annoyance to the public or individuals from anything dangerous, offensive or unwholesome; and,

WHEREAS, Chapter 8, Article 12, Section 5(15) of the West Virginia Code, grants plenary power and authority unto the City of Buckhannon's governing body to make regulations guarding against danger or damage by fire; and,

WHEREAS, Chapter 8, Article 12, Section 5(23) of the West Virginia Code, grants plenary power and authority unto the City of Buckhannon's governing body to

provide for the elimination of hazards to public health and safety and to abate or cause to be abated anything which in the opinion of a majority of the governing body is a public nuisance; and,

WHEREAS, Chapter 8, Article 12, Section 5(44) of the West Virginia Code, grants plenary power and authority unto the City of Buckhannon's governing body to protect and promote the public morals, safety, health, welfare and good order; and,

WHEREAS, Chapter 8, Article 12, Section 5(58) of the West Virginia Code, grants plenary power and authority unto the City of Buckhannon's governing body to provide penalties for the offenses and violations of law mentioned in 8-12-5 of the Code; and,

WHEREAS, Chapter 8, Article 11, Section 4(b), of the West Virginia Code, specifically provides that the governing body of any municipality may adopt, by ordinance, building codes, housing codes, plumbing codes, sanitary codes, electrical codes, fire prevention codes, or any other technical codes dealing with general public health, safety or welfare, or a combination of the same; and,

WHEREAS, Chapter 8, Article 11, Section 3, Subsection (3), of the West Virginia Code, specifically provides that any matter relating to the establishment of offenses and penalties by a municipality shall be set forth by ordinance; and,

WHEREAS, the Council of the City of Buckhannon desires in all respects to comply with the statutes of the State of West Virginia insofar as matters concerning electrical inspections and fire protection.

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

ARTICLE I – TITLE OF ORDINANCE: This Ordinance shall be known as the City of Buckhannon's Electrical Inspection and Fire Protection Ordinance.

ARTICLE II - FINDINGS OF COUNCIL: The Council of the City of Buckhannon hereby makes the following findings:

(1) the State of West Virginia has fully adopted all of NFPA 1, 70, and 101, which Codes have been determined by the State Fire Marshal to promote the safest electrical installation and fire protection practices;

(2) the safety of Buckhannon's citizens is paramount to all other municipal or private concerns;

(3) the City's adoption of the NFPA 1, 70, and 101 standards, as those Codes are applicable to the conducting of electrical inspections, will vastly improve the safety of Buckhannon's residential and commercial properties; and,

(4) the formal establishment of a municipal, Structural, Electrical Safety Committee shall facilitate the purposes of this Ordinance's administration.

ARTICLE III - DEFINITIONS:

(1) Commercial property = Real estate that is used for business, educational, governmental, religious, or non-profit activities including any residential, non-single family property. Commercial properties fall into many categories and include industrial properties, shopping centers, farms, offices, and vacant land. Real estate that is utilized for a combination of commercial and residential purposes shall for purposes of this Ordinance be deemed to be entirely commercial property. For purposes of this Ordinance, all units comprising any non-single family residential property shall be considered to be commercial property.

(2) Electrical Inspection = an electrical inspection is an inspection, which will help ensure that all electrical systems and wires in a building meet legal safety standards. There is a national electric code, which many electrical inspectors will use when determining whether a certain electrical installation is acceptable. In some cases, an electrical inspection, or even multiple inspections, will be included with an electric permit, often required by local governments.

Most electrical inspections are performed by the local government. For those who want to make sure they can pass an electrical inspection before the official inspector makes his rounds, a private inspector may be hired. This person will advise the project manager, or the owner, of any situations that require improvement before the official inspection is to take place.

There are three main types of electrical inspections that happen during the installation of an electrical system. The first is known as the "rough in" electrical inspection. During this time, all the wires, conduits and boxes will be inspected. The second electrical inspection is the service inspection. While there are many things that must happen to pass this inspection, making sure the service panel is installed and grounded in a proper fashion are two of the most important factors. The third inspection is the final inspection. At this point, all breakers and final touches will be installed, and the electrical system should be fully functional.

(3) Electrical Inspector = that person duly appointed by the City of Buckhannon to undertake all electrical inspections prescribed by this Ordinance or otherwise by the West Virginia State Code.

(4) NFPA = National Fire Protection Association; the mission of the international nonprofit NFPA, established in 1896, is to reduce the worldwide burden of fire and other hazards on the quality of life by providing and advocating consensus codes and standards, research, training, and education. The world's leading advocate of fire prevention and an authoritative source on public safety, NFPA develops, publishes, and disseminates more than 300 consensus codes and standards intended to minimize the possibility and effects of fire and other risks. NFPA membership totals more than 70,000 individuals around the world.

(5) Renovation = repairing, remodeling or adding on to an existing structure, provided that any newly constructed portion added to an existing structure does not exceed 500 square feet. For purposes of this Ordinance's administration, additions exceeding 500 square feet shall be considered as new construction.

(6) Residential property = single family occupied structures, but does not include structures consisting of two or more condominiums, townhouses, or apartments.

ARTICLE IV – ELECTRICAL INSPECTIONS: The provisions of this Ordinance

shall apply as follows:

(A) Commercial property – all property defined as commercial property, whether new construction or renovation, shall be deemed to be fully subject to all inspection provisions hereof, and all electrical work shall be performed only by licensed electricians;

(B) Residential property:

(1) All new residential structures shall be deemed to be fully subject to all inspection provisions hereof, and all electrical work shall be performed only by licensed electricians;

(2) All renovations to existing residential structures when performed by someone other than the true owner thereof or an immediate family member of the owner thereof, shall be performed only by licensed electricians, and shall be deemed to be fully subject to all inspection provisions hereof;

(3) All renovations to existing residential structures when performed by the true owner thereof or an immediate family member of the owner thereof, may be performed by someone other than a licensed electrician, however, the City strongly encourages all owners of all residential property to have all electrical work undertaken by a licensed electrician.

ARTICLE V – PERMIT FEES FOR ELECTRICAL INSPECTIONS:

(A) All inspection fees for property described pursuant to Article IV.A. hereof, i.e., commercial property, shall be determined by a multiplier of .001 of the cost of the construction or renovation as identified within the City building permit application. By way of example, in the event that a new commercial structure costs one million dollars (\$1,000,000.00) to construct, then the inspection fee shall be .001 times one million dollars (\$1,000,000.00), or One Thousand Dollars (\$1,000.00);

(B) All inspection fees for property described pursuant to Article IV.B.1. hereof, i.e., new residential structures shall be determined by the square footage of the new residential structure, with a minimum fee of One Hundred Fifty Dollars (\$150.00) for all new residential structures containing 2,000 or less

square feet; and any new residential structure exceeding 2,000 square feet shall pay an additional fifty cents (\$.50) per each additional ten (10) square feet or portion thereof, exceeding 2,000 square feet, i.e., an owner of a new residential structure containing 3,000 square feet shall be required to pay a Two Hundred Dollar (\$200.00) fee;

(C) All inspection fees for property described pursuant to Article IV.B.2. hereof, i.e., renovated residential structures undertaken by a licensed electrician shall be One Hundred Dollars (\$100.00).

ARTICLE VI – INCORPORATION AND ADOPTION OF STATE STATUTES AND ADMINISTRATIVE RULES & REGULATIONS: The Council of the City of Buckhannon hereby expressly adopts and incorporates the provisions of NFPA 1, 70, and 101, as administered by the State Fire Marshal’s Office, insofar but insofar only as the provisions of each of the foregoing Codes apply to electrical inspections, as though the provisions thereof were expressly set forth herein.

ARTICLE VII – VIOLATIONS, PENALTIES, AND JURISDICTION OF CITY’S MUNICIPAL COURT, AND PENALTIES FOR VIOLATIONS OF THIS ORDINANCE:

(A) No person shall fail to acquire any necessary electrical inspection permit required herein;

(B) The City of Buckhannon’s Municipal Court shall have exclusive jurisdiction to hear and decide all matters pertaining to violations of this Ordinance;

(C) Any person convicted of any offense under this Ordinance, i.e., failing to acquire the necessary inspections and pay the appropriate fees, shall be fined in an amount equivalent to the inspection fee, but not to exceed the amount of Five Hundred Dollars (\$500.00), plus such convicted person further shall immediately remit the full inspection fee, plus court costs.

ARTICLE VIII – EXEMPTIONS: Any structure respecting which a building permit has been acquired prior to the effectuation date of this Ordinance, shall not be subject to the provisions of this Ordinance, but rather shall be subject to those electrical inspection ordinances existing prior to this Ordinance’s effectuation.

ARTICLE IX – ADOPTION OF FUTURE NFPA CODES: It is the express intention of the Council of the City of Buckhannon to adopt all future editions of the NFPA 1, 70 and 101, insofar but insofar only as the provisions of each of the foregoing Codes apply to electrical inspections, as those Codes are respectively, and in their

amended forms, adopted and effectuated by the State of West Virginia by and through the State Fire Marshal's Office, without the necessity of amending this Ordinance.

ARTICLE X – ESTABLISHMENT OF STRUCTURAL, ELECTRICAL SAFETY

COMMITTEE: (A) There is hereby formally established the City of Buckhannon's Structural, Electrical Safety Committee, hereinafter referred to as the S.E.S. Committee, which shall consist of three members, being: (1) the duly appointed City electrical inspector; (2) the duly appointed City Fire Chief; and (3) the duly appointed City Housing Enforcement Officer.

(B) The S.E.S. Committee shall be charged with the development of reasonable, necessary, or appropriate forms and other informational literature that will facilitate the administration of this Ordinance's provisions, and generally educate the public about the provisions of this Ordinance.

(C) The S.E.S. Committee may propose reasonable, necessary or appropriate administrative rules and regulations to assist in the day-to-day administration of this Ordinance, which rules and regulations shall not usurp or otherwise be inconsistent with this Ordinance's provisions, and further which rules and regulations shall be duly submitted to and approved by the Council of the City of Buckhannon prior to such rules and regulations being implemented.

ARTICLE XI – SEVERABILITY: In the event that any provision of this Ordinance is determined to be unconstitutional or otherwise invalid by a court exercising competent jurisdiction, such determination shall not affect the validity of this Ordinance as a whole or the provisions thereof which are not specifically determined to be unconstitutional or invalid.

ARTICLE XII - AMENDMENT OF CITY ORDINANCE NO. 245 AND ANY AND ALL OTHER ORDINANCES OF THE CITY OF BUCKHANNON PREVIOUSLY ENACTED RESPECTING ELECTRICAL INSPECTIONS OR PERMIT FEES

THEREFORE: The provisions of Ordinance No. 245 and any and all other Ordinances of the City of Buckhannon previously adopted respecting the performance of electrical inspections or the permit fees charged therefore are hereby expressly amended pursuant to the provisions hereof.

ARTICLE XIII - 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., October 19, 2013.

FIRST READING:

September 5, 2013

SECOND READING, PASSAGE AND ADOPTION:

September 19, 2013

Kenneth T. Davidson, Mayor

CERTIFICATE OF ENACTMENT

I, Richard C. Clemens, City Recorder, do hereby certify that the foregoing Ordinance No. 377 was lawfully ordained and enacted by the Council of the City of Buckhannon at a regular session of the said Council assembled on September 19, 2013.

Richard C. Clemens, City Recorder