

ORDINANCE 100 OF THE CITY OF BUCKHANNON, WEST VIRGINIA.  
AN ORDINANCE ESTABLISHING OFFENSES AND PENALTIES.

BE IT ORDAINED BY THE COMMON COUNCIL OF THE CITY OF BUCKHANNON, UPSHUR COUNTY, WEST VIRGINIA, THAT THE FOLLOWING, ORDINANCE 100 OF THE CITY OF BUCKHANNON, AN ORDINANCE ESTABLISHING OFFENSES AND PENALTIES, IS HEREBY ENACTED AND ORDAINED THIS 7TH DAY OF MAY, 1959, BY THE SAID COMMON COUNCIL OF THE CITY OF BUCKHANNON AT REGULAR SESSION ASSEMBLED, AND SHALL BE IN FORCE ON AND AFTER THE 8TH DAY OF JUNE, 1959.

ORDINANCE 100 OF THE CITY OF BUCKHANNON, WEST VIRGINIA. AN  
ORDINANCE ESTABLISHING OFFENSES AND PENALTIES.

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ARTICLE ONE: Citation.

This ordinance may be cited as Ordinance 100 of the City  
of Buckhannon or as the Criminal Code of the City of Buckhannon.

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ARTICLE TWO:   DEFINITIONS

In the construction of this Code, the following definitions and rules of construction shall apply, unless indicated otherwise or unless inconsistent with the manifest intent of the Council or the context clearly requires otherwise:

Charter: The words "the Charter" shall mean the Charter of the City of Buckhannon.

City: The words "the City" or "City" shall mean the City of Buckhannon.

Council: The words "council" or "city Council" shall be construed to mean the Common Council of the City of Buckhannon.

Gender: A word importing the masculine gender only shall extend and be applied to females, and to firms, partnerships, and corporations as well as to males.

Number: A word importing the singular number only may extend and be applied to several persons or things as well as to one person or thing; a word importing the plural number only may extend and be applied to one person or thing as well as to several persons or things.

Or, And: "Or" may be read "and", and "and" may be read "or", if the sense requires it.

Owner: The word "owner", applied to any building or land, shall include any part owner, joint owner, tenant in common, joint tenant or tenant by the entirety, of the whole or part of such building or land.

Person: The word "person" shall extend and be applied to firms, partnerships, associations, bodies politic and corporate, or any other group acting as a unit, as well as to individuals.

Personal Property: Includes every species of property, except real property, as defined in this section.

Preceding, following: The words "preceding" and "following" shall mean next before and next after, respectively.

Property: "Property" includes real, personal and mixed estates and interests.

Real Property: Shall include lands, tenements and hereditaments.

Sidewalk: The word "sidewalk" shall mean any portion of a street between the curb line, or the lateral lines of a roadway where there is no curb, and the adjacent property line, intended for the use of pedestrians. If there is no public area between the lateral lines of the roadway and the abutting property line, then that area immediately abutting the street line shall be construed as sidewalk area.

Signature or Subscription: Includes a mark when the person cannot write.

State: The words "the State" or "this state" shall mean the State of West Virginia.

Street: The word "street" shall include avenues, boulevards, highways, roads, alleys, lanes, viaducts, bridges, and the approaches thereto, and all other public thoroughfares in the city, and shall mean the entire width thereof between abutting property lines. The word "street" shall also be construed to include a sidewalk or footpath, unless the contrary is expressed or unless such construction would be inconsistent with the manifest intent of the council.

Tenant or Occupant: The words "tenant" or "occupant", applied to a building or land, shall include any person who occupies the whole or part of such building or land, whether alone or with others.

Written, in Writing: "Written" or "in writing" shall be construed to include any representation of words, letters or figures, whether by printing or otherwise.

Minor and child: The words "minor" and "child" shall mean any person under the age of 18 years.

ARTICLE THREE: Offenses Involving Minors

SECTION 3.1: It shall be unlawful for any person, by act or omission to contribute to, encourage, or cause the delinquency or neglect of any minor.

SECTION 3.2: It shall be unlawful for any person to inflict unnecessary, cruel, or inhumane punishment upon any minor, to abuse or ill treat any minor.

SECTION 3.3: It shall be unlawful for any person having the care, custody, or control of any minor to abandon such minor, or neglect such minor.

SECTION 3.4: It shall be unlawful for any person to induce, aid, or abet, or attempt to induce, aid or abet, any minor to commit or attempt to commit, any violation of the ordinances of the City or the laws of the State of West Virginia.

SECTION 3.5: It shall be unlawful for any child under the age of 16 years to appear on any street or other public place, unless accompanied by his parent or legal guardian, between the hours of 10 P. M. and 6 A. M; and it further shall be unlawful for any person having the care, custody, or control of any child under the age of 16 years to permit such child to appear on any street or in any other public place between the hours of 10 P. M. and 6 A. M. without being in the company of his parent or legal guardian.

SECTION 3.6: It shall be unlawful for any minor to enter, remain, or loiter in any pool room or billiard hall; and it further shall be unlawful for the owner, licensee, or agent, or employee of an owner or licensee, of any pool room or billiard hall to permit any minor to enter, remain or loiter therein or to play at any billiard or pool table therein.

ARTICLE FOUR: Offenses Involving Alcoholic Liquors

SECTION 4.1: For the purposes of this Article:

"Person" Shall mean an individual, firm, partnership, corporation, or voluntary association.

"License" shall mean a license issued by the State of West Virginia<sup>ia</sup> or its authorized agency.

"Alcoholic Liquor" shall include alcohol, beer, wine and spirits, and any liquid or solid containing more than three and two-tenths per cent of alcohol by weight and capable of being used as a beverage.

"Spirits" shall mean any alcoholic beverage obtained by distillation and mixed with potable water and other substances in solution, and includes brandy, rum, whiskey, cordials and gin.

"Wine" shall mean any alcoholic beverage obtained by the fermentation of the natural content of fruits, or other agricultural products, containing sugar.

"Beer" shall mean any beverage obtained by the fermentation of barley, malt, hops, or any other similar product or substitute, and containing more than three and two-tenths per cent of alcohol by weight.

"Nonintoxicating Beer" shall mean any beverage obtained by the fermentation of barley, malt, hops, or any other similar product or substitute, and containing not more than three and two-tenths per cent of alcohol by weight.

"Manufacture" shall mean to distill, rectify, ferment, brew, make, mix, concoct, process, blend, bottle or fill any original package with any alcoholic liquor.

"Original Package" shall mean any closed or sealed container or receptacle used for holding alcoholic liquor.

"Sale" shall mean any transfer, exchange, or barter in any manner or by any means, for a consideration, and shall include all sales made by principal, proprietor, agent or employee.

"Selling" shall include solicitation or receipt of orders; possession for sale; and possession with intent to sell.

Section 4.2: It shall be unlawful for any person to sell, possess for sell, transport, or distribute alcoholic liquor in the City except in accordance with the provisions of the laws of the State of West Virginia.

Section 4.3: It shall be unlawful for any person to manufacture or sell, without a license, any alcoholic liquor except as permitted by the laws of the State of West Virginia.

Section 4.4: It shall be unlawful for any person to aid or abet in the manufacture or sale of alcoholic liquor, without a license, except as permitted by the laws of the State of West Virginia.

Section 4.5: It shall be unlawful for any person to adulterate any alcoholic liquor by the addition of any drug, methyl alcohol, crude, unrectified or impure form of ethyl alcohol, or other foreign or deleterious substance or liquid.

Section 4.6: It shall be unlawful for any person to refill with alcoholic liquor any bottle or other container in which alcoholic liquor has been sold at retail in the State of West Virginia.

Section 4.7: It shall be unlawful for any licensed person to sell alcoholic liquors of any kind other than that which such license or the laws of the State of West Virginia authorizes him to sell.

Section 4.8: It shall be unlawful for any licensed person to sell beer or nonintoxicating beer to which wine, spirits, or alcohol has been added.

Section 4.9: It shall be unlawful for any licensed person to sell wine to which other alcoholic spirits have been added otherwise than as required in the manufacture thereof under the regulations of the West Virginia Liquor Control Commission.

Section 4.10: It shall be unlawful for any licensed person to sell alcoholic liquor to any person who is:

- (1) Less than twenty-one years of age;
- (2) A habitual drunkard;
- (3) Intoxicated;
- (4) Addicted to the use of narcotic drugs;
- (5) Mentally incompetent.



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Section 4.11: It shall be unlawful for any licensed persons to sell any alcoholic liquor when forbidden by the laws of the State of West Virginia.

Section 4.12: It shall be unlawful for any person to appear in a public place in an intoxicated condition.

Section 4.13: It shall be unlawful for any person to drink alcoholic liquor in a public place.

Section 4.14: It shall be unlawful for any person to drink alcoholic liquor in a motor vehicle on any highway, street, alley, or in a public garage.

Section 4.15: It shall be unlawful for any person to tender a drink of alcoholic liquor to another person in a public place.

Section 4.16: It shall be unlawful for any person to possess alcoholic liquor in the amount in excess of one gallon in containers not bearing stamps or seals of the State of West Virginia or an authorized agency thereof without first obtaining written authority from the State of West Virginia or any authorized agency thereof.

Section 4.17: It shall be unlawful for any person to possess any alcoholic liquor which was manufactured or acquired in violation of the laws of the State of West Virginia.

Section 4.18: It shall be unlawful for any person to manufacture, sell, possess for sale, transport or distribute nonintoxicating beer except in accordance with the laws of the State of West Virginia, and after first obtaining a city and State license.

Section 4.19: It shall be unlawful for the holder of a nonintoxicating beer license, his servants, agents or employees to sell, give or dispense for any individual to drink or consume, in or on any licensed premises or in any rooms directly connected therewith, nonintoxicating beer between the hours of 12 Midnight and 7 A.M. the following morning on week days (Monday through Saturday) or at any time except between the hours of 1 P. M. to 12 P. M. on Sundays.



Section 4.20: It shall be unlawful for the holder of a nonintoxicating beer license, his servants, agents or employees, to sell, furnish, or give any nonintoxicating beer to any person visibly or noticeably intoxicated, or to any insane person, or to any habitual drunkard, or to any person under the age of 18 years.

Section 4.21: It shall be unlawful for the holder of a nonintoxicating beer license to permit in his premises any lewd, immoral, or improper entertainment or conduct.

Section 4.22: It shall be unlawful for the holder of a nonintoxicating beer license to manufacture, import, sell, trade, barter, possess or acquiesce in, or permit the manufacture, import, sell, trade, barter, or possession or consumption of any alcoholic liquors on the premises covered by his license or on premises directly or indirectly used in connection therewith.

Section 4.23: It shall be unlawful for the holder of a nonintoxicating beer license to sell or dispense nonintoxicating beer purchased or acquired from any source other than a licensed distributor or brewer under the laws of the State of West Virginia.

Section 4.24: It shall be unlawful for the holder of a nonintoxicating beer license to permit any act to be done upon the licensed premises, the commission of which constitutes a crime under the laws of the State of West Virginia.

ARTICLE FIVE: Offenses Against Property or Person

Section 5.1: It shall be unlawful for any person to injure, mutilate, deface, remove or destroy any tombstone, monument or grave in any cemetery, located within the City, or in any cemetery, owned or operated by the City, regardless of location.

Section 5.2: It shall be unlawful for any person to injure, deface, or destroy any corner or lot or any line mark of any lot; and it shall be unlawful for any person to deface, pull up or destroy any markers or stakes set for street limits, or for grading, paving or other work or improvement.

Section 5.3: It shall be unlawful for any person to steal or take, or attempt to steal or take, any goods, wares or merchandise or other personal property from any store, shop, or office without first paying for the same or without first obtaining the permission and consent of the owner, or his employees.

X Section 5.4: It shall be unlawful for any person to receive or cause to be furnished any food, lodgings, or other accommodations at any restaurant, hotel, or boarding house in the City with intent to defraud the owner or keeper of such hotel, restaurant, or boarding house of the purchase price of such food, lodgings or other accommodations. Failure to make payment upon demand by the owner or employee of the hotel, restaurant, or boarding house shall be considered as prima facie evidence of intent to defraud.

Section 5.5: It shall be unlawful for any person to operate or attempt to operate with, or place or attempt to place in, any coin box telephone or automatic vendor machine, any slug, or false, counterfeited, mutilated or foreign coin, with the intent to obtain therefrom services or merchandise or anything of value, or to obtain or attempt to obtain such services or merchandise from such coin box telephone or automatic vendor machine by any means, method, trick or device whatsoever not lawfully authorized by the owner or leasee or licensee of such coin box telephone or automatic vendor machine.

Section 5.6: It shall be unlawful for any person to enter upon or in any house, lot, land, enclosure, or business of another without the consent of the owner or occupant thereof, or to remain therein or thereon after being ordered by the owner, occupant or employee thereof to leave or quit the same.

Section 5.7: It shall be unlawful for any person to steal, take, damage or destroy, or attempt to steal, take, damage or destroy, any goods or chattels from any house, lot, land, enclosure or business of another without the consent of the owner or occupant thereof.

Section 5.8: It shall be unlawful for any person to damage, destroy, take or steal, or attempt to damage, destroy, take, or steal, any ornamental shrub, bush, plant, or tree from any garden, street, sidewalk, park or any other place, either public or private.

Section 5.9: It shall be unlawful for any person, either willfully or through neglect, to mutilate, damage or destroy any house, fence, garage, buildings or any real or personal property of any kind, either owned by the City or by any private person, firm, or corporation. ✓

Section 5.10: It shall be unlawful for any person to use or practice, or attempt to use or practice any trick, confidence game, or device with intent to swindle or defraud.

✓ Section 5.11: It shall be unlawful for any person to take, steal, or embezzle, or attempt to take, steal or embezzle, any goods, chattels or personal property of another.

Section 5.12: It shall be unlawful for any person or persons to fight or to commit any assault or battery, or to induce, or attempt to induce, any person or persons to fight or to commit any assault or assault battery.

Section 5.13: It shall be unlawful for any two or more persons to combine or conspire together for the purpose of inflicting any punishment or bodily injury by any means upon any person or persons, or for the purpose of destroying, injuring, defacing, or taking and carrying away any property, real or personal, not their own.

✓ Section 5.14: It shall be unlawful for any person to conduct himself upon any street, or other public place in any manner which shall annoy, worry, or harass another; or to willfully shove, injure, annoy, obstruct or hinder any person passing along or upon any sidewalk or street.

ARTICLE SIX: Offenses Against Public Morals

Section 6.1: It shall be unlawful for any person or persons to engage or participate in, or attempt to engage or participate in, any act of fornication, homosexuality, prostitution, or adultery, or any other act which offends against the public morals.

Section 6.2: It shall be unlawful for any person or persons to lease, keep, use, or permit or attempt to lease, keep, use or permit, any house to be used for the purposes of prostitution, fornication, adultery, homosexuality, or for any other purpose which offends against the public morals

Section 6.3: It shall be unlawful for any person to solicit, induce, or attempt to solicit or induce any person to engage or to participate in any act of fornication, prostitution, adultery, homosexuality, or any other act which offends against the public morals.

Section 6.4: It shall be unlawful for any owner, operator, or employee of any hotel, restaurant, tavern or other place frequented by the public to permit therein any riot, drunkenness, lewdness, obscenity, or any conduct which tends to disturb or does disturb the peace, order or morals of the public.

Section 6.5: It shall be unlawful for any person to make, or attempt to make, an indecent or immoral exhibition or exposure of his or her person, or cause or procure any other person to do the same in the presence or view of any other person or persons. The acts enumerated herein shall constitute an offense regardless of whether or not the person so making an indecent or immoral exhibition or exposure of his or her person is aware of the presence or view of any other person or persons.

Section 6.6: It shall be unlawful to sell or offer for sale, or to circulate, pass from person to another, or expose in any street or public place, or anywhere in view of any place frequented by the public, or publish, or cause to be published, any immoral, indecent, or obscene publication, printed or written matter, or picture or other representation; or to keep any such picture, publication, printed or written matter or other representation in any place frequented by, or where it may come into the possession of minors.

Section 6.7: It shall be unlawful for any person to speak or use obscene, profane, or immoral language or speech on any street, or in any public place, or in the presence of any other person or persons.

Section 6.8: It shall be unlawful for any person to appear in any public place not properly or decently clothed, or clothed in any manner which offends against public morals.

Section 6.9: It shall be unlawful for any person to curse profanely, swear, abuse another, or use profane, indecent or vulgar language over any telephone wire or system within the City, or while talking to another person or persons out of the City on any telephone or system located within the City.



ARTICLE SEVEN: Offenses Against Public Health and Safety

Section 7.1: It shall be unlawful for any person to discharge any firearm, or airgun in the City. This section shall not be construed to prohibit any officer of the law from discharging any firearm in the performance of his official duties.

Section 7.2: It shall be unlawful for any person to engage in hunting or killing any animal in the City other than as prescribed by the ordinances of the City.

Section 7.3: It shall be unlawful for any person to carry any concealed weapon or weapons on his person. For the purposes of this section, a concealed weapon shall include any concealed firearm, dirk, razor, billy, metallic or other false knuckles, knife, or other dangerous or deadly weapon of any kind or character.

Section 7.4: It shall be unlawful for any person to carry, expose, brandish, or use any firearm, knife, razor, billy, metallic or other false knuckles or other dangerous or deadly weapon of any kind or character in any way or manner to cause or threaten a breach of the peace.

Section 7.5: It shall be unlawful for any person, firm, or corporation to store, or to permit to be stored, any refuse, garbage or thing in such a manner as to constitute a fire hazard or a danger to the health of the public.

Section 7.6: It shall be unlawful for any person, firm, or corporation to deposit, dump, or throw any refuse or garbage of any kind in any alley, street, or other public place, or upon any lot or land of another.

Section 7.7: It shall be unlawful to cast, throw or propel any rock or missile of any nature in or on any street, alley or other public place; and it shall be unlawful to throw or deposit, either willfully or through neglect, any glass, nails, tacks or other similar articles on any street, sidewalk, alley or other public place.

Section 7.8: It shall be unlawful for any person, firm, or corporation to establish or conduct, or attempt to establish or conduct, any slaughterhouse, rendery, tallow chandlery, soap factory, glue factory, tannery, or any offensive or unwholesome business within the City or within three miles of the limits thereof.



Section 7.9: It shall be unlawful for any person, firm, or corporation to obstruct or attempt to obstruct any street, alley or sidewalk by placing therein or thereon boxes, crates, or anything amounting to an obstruction to passage.

Section 7.10: It shall be unlawful for any person, firm or corporation to make excavations on, dig up, or damage in any way any street, sidewalk or alley in the City without first obtaining approval of the City Council; and it shall be unlawful for any person, firm or corporation, having the approval of the City Council to make excavations on, or dig in or on, any street, alley, or sidewalk, to leave such excavations or construction unguarded or without adequate warning devices.

Section 7.11: It shall be unlawful for any person to spit or urinate upon any sidewalk, street or alley in the City, or to spit upon the floor in any public place, or to commit any act or acts therein or thereon which would endanger the health of the public.

Section 7.12: It shall be unlawful for any person to ignite, explode or fire any firecracker, squib, or fireworks, or sell or purchase any firecracker, squib, or fireworks without the approval of the City Council.

Section 7.13: It shall be unlawful for the owner of any lot, land, building, home, or structure to maintain, or permit to be maintained, any such lot, land, building, home, or structure, or anything therein or thereon, in an unsightly condition or in such a state so as to constitute a fire hazard or so as to endanger the health of the public.

Section 7.14: It shall be unlawful for any person knowingly to start or spread any false alarm of fire in the City.

Section 7.15: It shall be unlawful to light any fire of any nature so close to any building or other structure as to endanger such building or structure, or on any sidewalk, street or alley in the City.

Section 7.16: It shall be unlawful for any person to set on fire, or cause to be set on fire, any refuse, grass, brush, debris, or any inflammable substance except between the hours of five o'clock P. M. to five o'clock A. M. during the periods from March 1 to May 31 and October

1 to December 31, inclusive, and except as permitted by ordinances of the City.

Section 7.17: It shall be unlawful for any person to set, or cause to be set, any fire upon the property of another, and it further shall be unlawful for any person, willfully or through neglect to permit or allow any fire, set on his own property, to spread to the property of another.

Section 7.18: It shall be unlawful for any person or persons utilizing a party telephone line to refuse to surrender such line to any person who declares the need to utilize such party line to notify proper authorities of the existence of any emergency; and it further shall be unlawful for any person to declare falsely the existence of an emergency to any person or persons utilizing a party telephone line in order to obtain the immediate use of the party telephone line.

ARTICLE EIGHT: Offenses Against The Peace

Section 8.1: It shall be unlawful for any person to be in an intoxicated condition in or on any street, alley, or other public place in the City.

Section 8.2: It shall be unlawful for any person to engage in any conduct of a disorderly nature, or to engage in any conduct tending toward a breach of the peace. The causing or making of any unnecessary loud noise or shouting or yelling shall be considered disorderly conduct.

Section 8.3: It shall be unlawful for any person or persons to collect, gather or be a member of any disorderly crowd, or any crowd gathered together for any unlawful purpose.

Section 8.4: It shall be unlawful for any person or persons to molest or disturb, or attempt to molest or disturb, by words or conduct any lawful assemblage.

Section 8.5: It shall be unlawful for any person or persons to loiter at or near any dwelling house, store, restaurant, or any other public place, or to ring any door bell, or rap upon any door, or window with the intent to annoy or disturb any inmates or occupants of any such store or house, or to go upon any lot or land without the consent of the owner or occupants for the purposes of looking into any windows of any dwelling house located thereon.

Section 8.6: It shall be unlawful for mendicants or vagrants to frequent any depot, store, theater, street, alley, sidewalk, park, or other public place in the City. Any person found sleeping in any such place, or any person who has no established domicile or residence or means of support shall be considered to be a vagrant or mendicant.

## ARTICLE NINE: Miscellaneous Offenses

Section 9.1: It shall be unlawful for any person, firm, or corporation to conduct within the City any business, profession or calling without first obtaining such license or licenses as are required by the ordinances of the City.

Section 9.2: It shall be unlawful for any person to swear falsely under oath or affirmation lawfully administered in a trial of the witness or any other person for an offense in violation of this ordinance, or any other ordinances of the City, or any law of the State of West Virginia.

Section 9.3: It shall be unlawful for any person, firm or corporation to hinder or prevent, or attempt to hinder or prevent, any person from appearing as a witness in a proceeding for a violation of this ordinance, or any other ordinances of the City, or to hinder or prevent any person from answering and obeying any subpoena or summons issued by the City or any officer thereof.

Section 9.4: It shall be unlawful for any person to treat with cruelty beat, torture, mutilate, kill or deprive of necessary sustenance any animal, whether such animal be his or that of another person.

Section 9.5: It shall be unlawful for any person, without authority from the Common Council, to solicit subscriptions or money or any other thing of value upon any street, sidewalk, or in any public place in the City.

Section 9.6: It shall be unlawful for any person to give or offer to give any money or anything of value to any officer or employee of the City, either elected or appointed, as the consideration for the performance of, or the failure to perform, any duty or act required of said officer or employee of the City by the ordinances or charter of the City or laws of the State of West Virginia; and it further shall be unlawful for any official or employee of the City, either elected or appointed, to accept or offer to accept such money or other thing of value for such purposes.

Section 9.7: It shall be unlawful for any person by words or act to hinder, obstruct or oppose, or attempt to hinder, obstruct or oppose, any officer or employee of the City in the lawful exercise or discharge of his official duties.

Section 9.8: It shall be unlawful to advertise any unlawful business or articles in the City and it shall be unlawful to injure or deface any lawful advertisement or notice.

Section 9.9: It shall be unlawful for any person, firm or corporation to post any bills or advertisements on any public property, or on any poles located on any street, or alley, without the authority of the City Council; and it shall be unlawful to post any bill or advertisement on any property without the consent of the owner thereof.

Section 9.10: It shall be unlawful for any person to enter or go upon any building, land, lot, or public works owned, operated, or leased by the City, including, but not limited to cemeteries, office buildings, parks, garbage disposal sites and equipment storage areas, between the hours of 5 P. M. and 7 A. M. except with the permission of authorized City officials or employees, or except as authorized by the City Council.

Section 9.11: It shall be unlawful for any person, firm, or corporation, club or organization, to keep or exhibit any gambling table or gambling device of any nature, and any such gambling table or device may be confiscated by any member of the police.

Section 9.12: It shall be unlawful for any person to bet or play at any gambling table or gambling device.

Section 9.13: It shall be unlawful for any person, at any place, public or private, to bet or wage money or anything of value on any game of chance, and it further shall be unlawful for any person knowingly to furnish money or other thing of value to any other person to bet or wager on any game of chance.

Section 9.14: It shall be unlawful for the owner, leasee, or occupant of any room, office, dwelling, club, or other building or structure to permit or allow any game of chance or gambling contest of any nature to be played or conducted in such room, office, dwelling, club, or other building or structure.

Section 9.15: It shall be unlawful for any person, corporation, or firm to sponsor, participate in, conduct or manage any lottery, raffle, arrangement or device involving the buying or selling of chances or tickets for cash prizes or prizes of merchandise or personal or real property of any nature; and it further shall be unlawful for any person, firm, or corporation, to buy or sell any chances or tickets in any gambling, game, lottery, raffle, gambling arrangement or gambling device.



Section 9.16: All statutes and laws of the State of West Virginia establishing criminal offenses for which fines or imprisonment may be imposed, presently in effect or which may hereafter be enacted by the legislature of the state, or amendments or additions thereto, insofar as such statutes and laws are not covered by other provisions of this Code, are hereby adopted and made a part of this Code. It shall be unlawful for any person, corporation, or firm to violate, within the City, any such statute or law of the State of West Virginia, and any such violation which occurs within the City may be charged as a violation of this section of the Code.



## ARTICLE TEN:

## Penalties

Section 10.1: Any person, firm, or corporation violating any provisions of this ordinance shall be fined not less than ten dollars (\$10.00) nor more than One Hundred Dollars (\$100.00) for each offense; and a separate offense shall be deemed committed on each day during or on which a violation occurs or continues.

Section 10.2: In addition to the imposition of the fines herein provided, any person violating any provisions of this ordinance may be confined in jail for not less than one day nor more than 60 days for each offense; and a separate offense shall be deemed committed on each day during or on which a violation occurs or continues.

Section 10.3: In addition to the imposition of the fines herein provided, all persons found guilty of an offense or offenses in violation of this ordinance will be taxed such costs of the proceedings as are authorized by the laws of the State of West Virginia and the Charter and ordinances of the City.

## ARTICLE ELEVEN: Police Court

Section 11.1: All prosecutions for violation of this Code and other ordinances of the City shall be tried in the Police Court of the City. The Mayor shall be the judge of said court and all trials shall be before said Mayor without a jury.

Section 11.2: The style of process of the Police Court shall run in the name of the City of Buckhannon.

Section 11.3: All ordinances or codes of ordinances adopted by authority of the Council shall, in all proceedings in the Police Court, be admitted as prima facie evidence, and, in any such proceedings, it shall not be necessary to plead the entire ordinance or section, but only such parts thereof as are admitted in evidence.

Section 11.4: In connection with proceedings in the Police Court, the Mayor shall possess and may exercise such authority as is granted under the Charter of the City and the statutes of the State of West Virginia.

Section 11.5: Upon conviction of any person for a violation of this Code or other ordinance of the City, the Mayor may impose such fine and imprisonment as is herein provided or as provided in the ordinance violated. In addition, the Mayor shall tax such costs in each criminal case as are provided by law to be taxed by justices of the peace, except that in every contested criminal case, the Mayor may also tax an attorney fee of not exceeding five dollars to be paid to the City attorney for his services in said case, if a conviction be had in such case.

Section 11.6: The Mayor may provide in all judgments of conviction for the violation of any ordinance of the City a fine, and that the person against whom said fine is assessed shall be imprisoned until the fine and costs of prosecution shall be paid, but not to exceed ten days. Any person committed for the nonpayment of fine and costs, while in custody, may be compelled to work on the streets, alleys, public grounds or works until the fine and costs are paid, allowing one dollar fifty cents per day for the work of said prisoner to apply on said fine and costs.

Section 11.7: The Mayor shall have the power to issue an execution for any fine and costs imposed by him, for the violation of any ordinance, or he may at the time of rendering judgment thereof, or at any time thereafter, and before satisfaction of such judgment, by his order in writing, require the immediate payment thereof, and, in default of such payment, he

may cause the person so in default to be apprehended and brought before him and commit him to jail until the fine and costs are fully paid, but not to exceed seventy days.

Section 11.8: All fines, penalties, forfeitures and collections of every kind made by the Mayor shall be the property of the City and shall be deposited with the City Treasurer within three days after the collection thereof, to be by him applied to the proper fund of the City as may by ordinance be required.

Section 11.9: Appeals from the Police Court shall lie to the Circuit Court of the Upshur County, as is now or may be provided by statute of this state governing appeals from municipal courts to circuit courts.

Section 11.10: The Mayor may issue attachment for contempt and punish summarily for contempt in the following cases:

(a) Misbehavior in the presence of the Court, or so near thereto as to obstruct or interrupt the administration of justice;

(b) Violence or threats of violence to the Mayor, or to any officer of the court, or to any witness or party going to, attending, or returning from the court, for or in respect of any act or proceeding had, or to be had in such court;

(c) Disobedience to or resistance of any officer of the court, witness, or other person to any lawful process, judgment, decree or order of such court.

(d) The court shall not impose a fine or imprisonment for contempt unless the defendant be present in court, or unless the court shall cause the defendant be served with a rule to the court to show cause on some certain day, and the defendant shall have failed to appear and show cause.

(e) Any person convicted of contempt shall be fined not less than Ten Dollars nor more than One Hundred Dollars, and may, in addition thereto, be sentenced to jail for not less than one day nor more than 30 days.

ARTICLE TWELVE: General

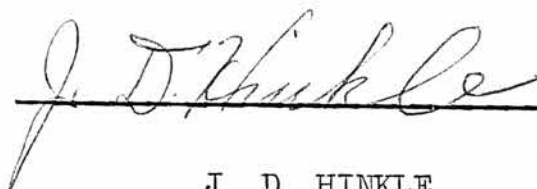
Section 12.1: All ordinances and parts of ordinances in conflict herewith be and the same are hereby repealed.

Section 12.2: The repeal of the ordinances or parts of ordinances effectuated by the enactment of this ordinance shall not be construed as abating any actions now pending under or by virtue of such ordinance or as discontinuance, abating, modifying or altering any penalty accruing or to accrue or as affecting the liability of any person, firm or corporation or as waiving any right of the municipality under any section or provision existing at the time of the passage of this ordinance.

Section 12.3: It is the intention of the Council that this ordinance, and every provision thereof, shall be considered separable; and the invalidity of any section, clause, provision, or part or portion of any section, clause or provision of this ordinance shall not affect the validity of any other portion of this ordinance.

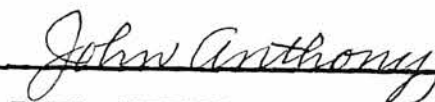
Section 12.4: This Code shall not be construed so as to prohibit the prosecution of any person, corporation, or firm, for the violation of any other ordinance of the City, either presently in effect or hereafter enacted, and the imposition of fine or imprisonment for such violation. It is hereby expressly declared not to be the intention of the Council to limit punishable offenses solely to those contained in this Code.

The foregoing ordinance, Ordinance 100 of the City of Buckhannon, an ordinance establishing offenses and penalties, was ordained and enacted by the Common Council of the City of Buckhannon on May 7, 1959, at regular session assembled, and shall be in force on and after the 8th day of June, 1959.



J D HINKLE  
MAYOR

ATTEST:



JOHN ANTHONY  
RECORDER