

ORDINANCE NO. 429 OF THE CITY OF BUCKHANNON, AN ORDINANCE
REFORMING THE PLANNING COMMISSION OF CITY OF BUCKHANNON,
ESTABLISHING THE NUMBER OF MEMBERS OF THE PLANNING COMMISSION,
THE INITIAL TERMS THEREOF, AND THE DUTIES, POWERS, AND
RESPONSIBILITIES OF THE COMMISSION

WHEREAS, the City of Buckhannon, by Ordinance No. 110 enacted March 2, 1961 established the City of Buckhannon Planning Commission (hereafter, "Commission") to act in an advisory capacity to the City Council, to "work towards promoting the orderly development of the City of Buckhannon and its environs"; and,

WHEREAS, said Ordinance No. 110 established the Commission and named certain members thereto together with their respective terms of office, two of which were city officials; particularly, a member of the City Council, and the Treasurer of the City, to serve during their respective terms of office; and,

WHEREAS, Chapter 8A of the West Virginia Code, titled "Land Use Planning" was adopted during the 2004 Regular Session of the West Virginia Legislature; and,

WHEREAS, West Virginia Code §8A-2-2 expressly provided for the continuation of planning commissions established prior to the enactment of said Chapter 8A and ratified all lawful acts taken prior to the effective date of said Chapter, but required that governing bodies which established planning commissions not in compliance with said Chapter make "changes necessary . . . to bring the membership of the existing planning commission into conformity with the provisions of" said Chapter 8A; and,

WHEREAS, West Virginia Code §8A-2-3 requires that "a municipal planning commission in a Class I, II or III city shall have not less than five nor more than fifteen members, the exact number to be specified in the ordinance creating the planning commission;" and,

WHEREAS, the membership of the Commission has, based upon a review of minutes and other extant records, varied at times between twelve and sixteen members, the exact number of members of the Commission not being specified in the ordinance creating the Commission nor in any identified subsequent ordinance; and,

WHEREAS, West Virginia Code §8A-2-3 further requires that among the members of a municipal planning commission, "one member must be a member of the municipal governing body or a designee and one member must be a member of the administrative department of the municipality of a designee. The term of membership for these two members is the same as their term of office;" and,

WHEREAS, the Commission is a statutory creation, at the discretion of the governing body of the municipality, and the governing body has the duty to ensure the Planning Commission's compliance with state law.

NOW, THEREFORE, BE IT RESOLVED BY THE COUNCIL OF THE CITY OF BUCKHANNON, AS FOLLOWS:

ARTICLE I – ESTABLISHMENT OF PLANNING COMMISSION; MEMBERSHIP; FISCAL YEAR; POWERS AND DUTIES.

A. In the interest of maximizing governmental efficiency, responsiveness, and productivity, the Planning Commission of the City of Buckhannon ("Commission") is established as an advisory body to the City Council. The Commission shall consist of exactly nine voting members; one shall be a member of the City Council of the City of Buckhannon designated by the Council, one shall be a member of the administrative department of the City of Buckhannon designated by the Council; these members shall be appointed by the City Council in its first meeting of each fiscal year, or as soon thereafter as practicable.

B. The remaining seven (public) members of the Planning Commission shall be residents of the City of Buckhannon, qualified by knowledge and experience in matters pertaining to the development of the City, and fairly representing different areas of interest, knowledge and expertise, including but not limited to business, industry, labor, government, and other relevant disciplines.

C. The City Council, by motion, shall appoint the initial seven public members of the Commission; two members shall be appointed for an initial term ending June 30, 2019, two members shall be appointed for an initial term ending June 30, 2020, and three members shall be appointed for an initial term ending June 30, 2021. Upon expiration of the initial terms, the City Council shall by motion appoint members for terms of three years. Vacancies shall be filled by motion of the City Council for the unexpired term. Of the nine members of the Planning Commission, at least six must have been residents of the City for at least three years prior to their appointment as members of the Commission

D. The City Recorder, or his or her designee, shall attend each meeting of the Planning Commission and keep the records thereof, but shall not be a member thereof.

E. The Planning Commission's year shall run concurrently with the City's fiscal year.

F. The Planning Commission shall undertake updates to the City's Comprehensive Plan as provided in West Virginia Code §8A-3-1, *et seq.*

G. The Planning Commission has only the powers granted to it under West Virginia Code §8A-2-11, §8A-7-1, *et seq.*, and any additional powers explicitly granted to it by the City Council.

ARTICLE II – 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 either as a whole or the provisions thereof which are not specifically determined to be unconstitutional or invalid.

ARTICLE III - EFFECTIVE DATE: This Ordinance shall be deemed effective thirty (30) days following the second (2nd) reading, public hearing, passage and adoption by the Council of the City of Buckhannon, i.e., September 1, 2018.

FIRST READING:	July 19, 2018
SECOND READING AND ADOPTION	August 2, 2018

David W. McCauley, Mayor

CERTIFICATE OF ENACTMENT

I, Colin Reger, City Recorder, do hereby certify that the foregoing Ordinance No. 429 was lawfully ordained and enacted by the Council of the City of Buckhannon at a regular session of the said Council assembled on August 2, 2018.

Colin Reger, City Recorder