

City of Buckhannon

Zoning Ordinance

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ARTICLE I

PURPOSES, INTERPRETATION AND CONFLICT

SECTION 101. PURPOSES.

The purpose of this ordinance is to plan areas so that adequate light, air, convenience of access, and safety from fire, flood and other dangers may be secured; that congestion in the public streets may be lessened or avoided; that lots, buildings and other structures may be maintained in a safe, clean and attractive manner; that the public health, safety, comfort, morals, convenience and general public welfare may be promoted; and that the future growth of the City of Buckhannon shall be planned and orderly, and commensurate with and promotive of the efficient and economical use of public funds.

The standards and regulations herein provided constitute inclusive zoning in that no use may be operated within a zoning district unless it is specifically identified as a use permitted for that district.

SECTION 102. INTERPRETATION AND CONFLICT.

The interpretation and application of the standards set forth by this Ordinance shall be held to be the minimum requirements for the promotion of the health, safety and general welfare of the City. This Ordinance is not intended to interfere with or abrogate or annul other rules, regulations or ordinances of the City of Buckhannon, other than those ordinances which these standards expressly consolidate, incorporate and/or amend, provided that where this Ordinance imposes a greater restriction upon the use of buildings or premises, or upon the height of a building, or requires larger open spaces than are imposed by such other rules, regulations or ordinances, the provisions of this Ordinance shall prevail.

ARTICLE II

DEFINITIONS

SECTION 201. INTERPRETATION:

For the purposes of this Ordinance, certain terms and words used herein shall be interpreted or defined as follows:

1. Words used in the present tense shall include the future.
2. Words used in the singular tense shall include the plural.
3. The word "person" includes a corporation as well as an individual.
4. The word "lot" includes the word plot or parcel.
5. The term "shall" is always mandatory; the word "may" is permissive.
6. The word "used" or "occupied" as applied to any land or building shall be construed to include the words "intended", "arranged", or "designed" to be used or occupied.
7. The word "structure" shall include but is not necessarily limited to the word building.

SECTION 202. MEANING OF WORDS:

Unless otherwise expressly stated, the following words shall, for the purposes of this Ordinance, be defined as follows:

1. ACCESSORY USE OR ACCESSORY STRUCTURE: A use or structure on the same lot located to the rear of, unattached with, and of a nature customarily incidental and subordinate to, the principal use or structure.
2. ALTERATION: As applied to a building or structure, that enlargement or modification to any structural part, whether by extending as a side, or by increasing in height, or the moving from one location to another.
3. APARTMENT: A lot consisting of two (2) or more separate living units each having a minimum of 400 square feet (400') of habitable area, exclusive of basement and/or cellar dwellings, one (1) bathroom and one (1) or more habitable rooms, separate and private sanitary, cooking and dining facilities, and a minimum of one (1) off-street parking space per living unit.
4. AREA, NET FLOOR: The area used or intended for services to the public as customers, patrons, clients or tenants, including areas occupied for fixtures and equipment used for the display or sale of merchandise. Certain floor areas may be excluded from the calculation of the total net floor area when used exclusively for storage, housing of mechanical equipment integral with the building, for maintenance facilities, or for those areas so restricted that customers, patients, clients, salesmen and the general public are denied access.
5. BUILDING: Certain structures which are designed for habitation, shelter, storage, trade, manufacture, religion, business, education, and the like, ordinarily enclosing a space within its walls, and usually, but not necessarily, covered with a roof. For the purpose of applying these Standards, all buildings are structures. See Structures.
6. BUILDING LINE OR SETBACK LINE: The imaginary line located a fixed distance from the front line of the lot and interpreted as being the nearest point to the front lot line that a building may be constructed. The building line shall limit the location of porches, patios and similar construction, steps excepted, to the point abutting this line.
7. CERTIFICATE OF OCCUPANCY: A statement signed by the Zoning Officer setting

forth either that a building or structure complies with this Ordinance or that a building structure or parcel of land may be lawfully employed for specified uses or both.

8. **COMMERCIAL:** Engaging in a business, enterprise, trade, profession, activity or other undertaking for profit.
9. **COMMISSION OR PLANNING COMMISSION:** The duly appointed members of the Planning Commission of the City of Buckhannon, West Virginia, as established pursuant to City of Buckhannon Ordinances No. 110, 156 and 158.
10. **COUNCIL OR CITY COUNCIL:** The duly seated members of the Council of the City of Buckhannon, Upshur County, West Virginia.
11. **COUNTY CLERK:** The Office of the Clerk of the County Commission for Upshur County, West Virginia, i.e., the public documents registry for Upshur County, West Virginia.
12. **DWELLING, MULTIPLE FAMILY:** A dwelling designed for, or occupied exclusively as a residence for three (3) or more families with separate housekeeping and cooking facilities for each family.
13. **DWELLING, SINGLE-FAMILY:** A building designed for, or occupied exclusively as a residence for only one (1) family.
14. **DWELLING, TWO-FAMILY:** A building designed for, or occupied exclusively as a residence for two (2) families only, with separate housekeeping and cooking facilities for each.
15. **ERECTED:** Includes built, constructed, reconstructed, moved upon, or any other physical operations conducted upon the land required for, or normally associated with building and construction processes and operations. Excavation, fill, drainage and similar processes and operations shall be considered as being "erected".
16. **ESSENTIAL SERVICES:** The erection, construction, alteration or maintenance by either public utilities or municipal boards, departments or commissions of underground or overhead water, sanitary and storm sewerage, gas, electrical, telephone transmission, and television cable transmission or distribution systems, including but not limited to poles, wires, mains, drains, sewers, pipes, conduits, cables, towers, fire alarm boxes, traffic signals, hydrants, and similar equipment and accessories in connection therewith, which are reasonably necessary for the furnishing of adequate service by such public utilities or municipal boards, departments or commissions or for the public health, safety and general welfare.
17. **FAMILY:** A reasonable number of individuals related to each other by blood or by marriage, residing together and comprising a single housekeeping unit whose head is usually the mother, father, wife or husband, and as distinguished from a group of people commonly occupying such things as boarding houses, rooming houses, group homes, fraternity or sorority houses, or nursing, convalescent, personal care and rest homes.
18. **GROCERY STORE:** An establishment engaged primarily in the retail sale of prepackaged food products, provided that any on-site food preparation for consumption other than within the premises shall be limitedly permitted as an incidental or supplemental use or activity, but provided further that such on-site food preparation shall account for no more than ten percent (10%) of the total retail sales.
19. **GROUP HOUSING:** Two (2) or more residential buildings constructed upon a plot of ground not subdivided into customary lots and streets.
20. **HOME OCCUPATION:** Any use customarily conducted entirely within the principal structure located upon a residentially zoned lot, and carried on by the inhabitants thereof, which is clearly incidental and secondary to the

use of the residential purposes and does not change the character thereof. The conducting of a clinic, hospital or any similar use shall not be deemed to be a home occupation.

21. **LOADING UNIT:** A loading unit shall consist of a space twelve feet (12') wide, fifteen feet (15') high, and forty-five feet (45') long, exclusive of access and turning area.
22. **LOT:** The parcel of land upon which any principal building and any permitted accessory buildings and structures are placed, together with the required open spaces.
23. **LOT AREA:** The horizontal surface area within the lot lines of a lot.
24. **LOT DEPTH:** The mean horizontal distance between the front and rear lot lines.
25. **LOT WIDTH:** The mean horizontal distance across the lot between the side lot lines measured at right angles to the depth.
26. **MOBILE OR TRAILER HOME:** A structure with the following characteristics:
 - a. It is used, designed for use, or capable of being used as living quarters, containing sleeping accommodations, toilet, tub or shower bath, kitchen facilities, and plumbing and electrical connections for attachment to public utilities; and,
 - b. It is designed for independent transportation after fabrication upon streets or highways on its own wheels and axles; and,
 - c. It arrives at the site where it is to be occupied, completed and ready for occupancy except unpacking and assembly operations, location on jacks, and other temporary or permanent foundations, connections to public utilities and the like; and,
 - d. Without limiting those structures which are classified as mobile or trailer homes, the ordinary dimensions of a mobile or trailer home as contemplated herein are twelve feet (12') by sixty feet (60'), or fourteen feet (14') by seventy feet (70') or of similar dimensions. PROVIDED, that any portable or mobile living unit used for temporary human occupancy away from the place of residence of the occupants, and not constituting a principal place of residence of the occupants, or any vehicle to be pulled behind an automobile or truck which is designed for hauling animals, produce, goods or commodities, including boats, shall not be considered to be a mobile or trailer home within this definition.
27. **MODULAR HOME OR PREFABRICATED HOME OR DOUBLE-WIDE HOME:** A building with the following characteristics:
 - a. It is used, designed for use, or capable of being used as living quarters, containing sleeping accommodations, toilet, tub or shower bath, kitchen facilities, and plumbing and electrical connections for attachment to public utilities; and,
 - b. It is not designed for independent transportation after fabrication upon streets or highways on its own wheels and axles, nor is it fabricated with independent wheels or axles.
28. **MOTEL OR HOTEL:** A building consisting of two (2) or more living or sleeping quarters used independently of each other and used principally for providing overnight sleeping accommodations to transient guests, however not including rooming houses or boarding houses.
29. **NONCONFORMING USE:** A building, structure or premises lawfully occupied at

the time of the enactment of these Standards by a use that does not conform with the provisions of these Standards for the district in which it is located; also such use resulting from changes in zoning districts or in textual provisions made hereafter.

30. NURSING, CONVALESCENT, PERSONAL CARE OR REST HOMES: Any dwelling with sleeping rooms where persons are housed or lodged, and are furnished with meals and nursing or custodial care for hire, or a home operated by a nonprofit group and operated as an institution.
31. PARKING SPACE: The paved or gravelled area required for parking one (1) automobile ten feet (10') by twenty feet (20') excluding access or turning area.
32. PLANNING COMMISSION: See "COMMISSION".
33. PRINCIPAL BUILDING: A structure within which is conducted the principal use of the lot upon which the principal structure is situated.
34. PRIVATE CLUB OR LODGE: A building for the conducting of meetings and activities of a voluntary association of persons numbering not in excess of one hundred fifty (150), for common purposes of a social, literary, investment, political nature, or the like.
35. PRIVATE GARAGE: A building for the storage of motor vehicles or boats owned and used by the owner or tenant of the lot for a purpose accessory to the use of the lot, and for not more than one (1) additional motor vehicle owned and used by others.
36. PROFESSIONAL OFFICE: Any office or business conducted by an individual, or firm or association of individuals such as accountants, architects, chiropractors, dentists, engineers, financial and other consultants, insurance brokers, lawyers, optometrists, physicians, real estate brokers, and stock brokers and consultants.
37. PUBLIC GARAGE: A building, other than a private garage as defined herein, which is used for the commercial storage or repair of vehicles and other motorized equipment.
38. ROOMING HOUSE, BOARDING HOUSE, TOURIST HOME, OR BED AND BREAKFAST ESTABLISHMENTS: A building or premises other than a motel or hotel where lodging is offered by prearrangement for a definite period of time for compensation, to three (3) or more persons, and which is not open to transient guests, as opposed to hotels and motels.
39. SETBACK LINE: See "BUILDING LINE OR SETBACK LINE".
40. SIGHT TRIANGLE: The additional setback distance required on corner lots which is deemed to be necessary to assure clear and unobstructed vision of pedestrians and motorists for safety purposes, as said distance is determined to be reasonable and necessary by the Zoning Officer.
41. SIGN: Any writing, pictorial representation, illustration, mural, decoration, emblem, symbol, flag, banner or any other figure of similar character, which is a structure or any part thereof which is attached to, painted on, or in any other manner represented on a building or other structure, including but not limited to any illuminated sign located in any window. The area of the sign shall include the support material from the bottom of the sign to and beyond the top of the sign.
42. STANDARDS: The Zoning Ordinance of the City of Buckhannon, West Virginia.
43. STRUCTURE: Anything constructed or erected with a fixed location extending above the legitimate and average ground level thirty inches (30") or more, or which is attached to something having a fixed location on the ground,

such as but not necessarily limited to all buildings as defined herein, garages, mobile homes, outbuildings, walls, fences, billboards, poster panels and television satellite dishes.

44. UTILITY: For purposes of applying these Standards, "utilities" shall include public water and public sanitary sewer facilities, only.
45. VARIANCE OR EXCEPTION: The formally documented authorization granted by the Zoning Board of Appeals to an owner respecting the use of land or the use of a structure following a determination by the Zoning Board of Appeals that a literal enforcement of these Standards would result in an unnecessary hardship to the owner.
46. YARD: A required open space unoccupied and unobstructed by any structure or portion of a structure provided however, that fences and walls may be permitted in any yard, subject to the height and material limitations as are set forth in these Standards.
47. YARD, FRONT: The open space extending across the entire width of the lot between the front line of the building line or setback line and the street line. The front yard shall further be required to be located immediately adjacent to and abutting with a public street or highway, however, an alley for purposes of this definition is not intended to be construed as being a public street or highway.
48. YARD, REAR: The required open space extending from the rear of the principal building or structure to the rear lot line (not necessarily a street line) throughout the entire width of the lot.
49. YARD, SIDE: The required open space extending from the side of any building along the side lot line throughout the entire depth of the building.
50. ZONING: A legal and administrative device whereby a municipality divides its territory into districts and applies to each district a number of regulations to control such things as the use of land, the height and bulk of buildings, and the area of ground built upon.
51. ZONING BOARD OF APPEALS: The duly appointed members of the Zoning Board of Appeals of the City of Buckhannon, West Virginia.
52. ZONING OFFICER: The person appointed and authorized by the Council of the City of Buckhannon to act as the administrator in the day-to-day application of these Zoning Standards.

ARTICLE III

ZONING DISTRICTS

SECTION 301. ESTABLISHMENT OF DISTRICTS

In order to regulate and restrict the location and use of buildings, structures, accessory structures, and land for trade, industry, residence and other purposes; to regulate and restrict the height and size of structures hereafter erected or structurally altered, the size of yards and other open spaces and the density of population; and to accomplish the purposes of this Ordinance, the City of Buckhannon, Upshur County, West Virginia, is hereby divided into twelve (12) zoning districts as follows:

- (1) R-1 Single Family Residential District (Section 501)
- (2) R-2 General Residential District A (Section 502)
- (3) R-3 General Residential District B (Section 503)
- (4) R-4 Mobile Home Park District (Section 504)
- (5) R-5 Public Housing Project District (Section 505)
- (6) C-1 Central Commercial Business District (Section 506)
- (7) C-2 Highway Commercial (Section 507)

- (8) C-3 Neighborhood Commercial (Section 508)
- (9) I- Industrial (Section 509)
- (10) P- Permanent Preserve (Section 510)
- (11) A- Agricultural (Section 511)
- (12) M- Medical (Section 512)

SECTION 302. MAPS AND BOUNDARIES:

The boundaries of the twelve (12) districts shall be shown and delineated upon a map entitled in part, "Zoning Districts Map", which shall be kept on file at all times in the Office of the City Recorder of Buckhannon, which map, together with all explanatory matter thereon, is expressly hereby made a part of these Standards.

The district boundaries are either streets, alleys or lot lines, unless otherwise specifically shown. Boundaries indicated as approximately following the centerlines of streets, highways or alleys shall be construed to follow such centerlines. In any case of doubt or dispute as to the specific location of boundaries, the Zoning Board of Appeals shall interpret and determine the precise district boundaries.

ARTICLE IV

APPLICATION OF REGULATIONS

SECTION 401. USE OF PROPERTY:

Except as provided in this Ordinance:

A. CONFORMITY OF BUILDINGS AND LAND:

No building, structure, or premises shall be used or occupied, and no building or part thereof or other structure shall be erected, razed, moved, placed, reconstructed, extended, enlarged or altered except in conformity with these Standards as herein specified for the district, as shown on the Zoning Districts Map, in which it is located.

B. CONFORMITY OF BUILDINGS:

No building, structure or premises shall be erected, altered or used so as to produce greater height, smaller yard or less unoccupied area, and no building shall be occupied by more families than prescribed for such building, structure or premises for the district in which it is located.

C. CONFORMITY OF OPEN SPACES:

No yard, court or open space or part thereof, shall be included as a part of the yard, court or open space similarly required for any other building or structure under this Ordinance.

ARTICLE V

**PERMITTED USES, LOT DIMENSIONS,
YARD REQUIREMENTS, AND
OFF-STREET PARKING REQUIREMENTS**

SECTION 501. R-1, SINGLE FAMILY RESIDENTIAL DISTRICT:

A. THE FOLLOWING BUILDINGS AND USES SHALL BE PERMITTED IN R-1, SINGLE FAMILY RESIDENTIAL DISTRICT:

1. Single family detached dwelling houses, but not including mobile or trailer homes as defined in Article II. Each dwelling house shall be occupied by not more than one (1) family, and no more than two (2) roomers or boarders, provided that additional adequate off-street

parking shall be made available for the vehicles of any such roomers or boarders, and provided further that off-street parking shall be made available in any case where the residents of a particular R-1 dwelling house cumulatively own, possess or use more than one (1) motor vehicle, and in such event then one (1) off-street parking space shall be provided by the resident or homeowner for each vehicle in excess of one (1) vehicle, however, in no case shall any R-1 residence be permitted to have fewer than two (2) off-street parking spaces.

2. Parks, playgrounds and other recreational uses of strictly a non-commercial nature.

B. THE FOLLOWING ACCESSORY USES AND BUILDINGS SHALL BE PERMITTED IN R-1, SINGLE FAMILY RESIDENTIAL DISTRICT:

1. Private garages and parking spaces for the occupants of the premises and their guests.
2. Any other accessory use customarily incidental to or necessary to the enjoyment of the principal residential structure (i.e., including, but not being limited to, home gardening and greenhouses - without sale of products, swimming pools of both above and below the ground nature for use by the occupants of the premises and their non-paying guests, dog houses, playhouses, treehouses, and utility buildings for housing tools and equipment, etc.).
3. Signs as follows:
 - a. Public street or road signs at a height of not less than seven feet (7') above the top level of the curb, with or without reflective surface.
 - b. Signs designating the occupant's name, and/or house number provided that they are attached to the surface of the dwelling or to a lamp or light post and provided further that the letters and numbers are not in excess of four inches (4") in height, and provided further in the event that any sign is attached to a lamp or light post, such lamp or light post shall be located at a minimum distance of five feet (5') from the boundary of the residence lot and the street right of way if no sidewalk exists, and a minimum of five feet (5') from the inside edge of the walkway if such a walkway exists. Such signs may have a reflective surface, but may not be illuminated.
 - c. Signs advertising the sale, rental or development of property, Provided, that any such sign advertising the sale, rental or development of any property zoned R-1 shall not exceed six square feet (6') in area.

C. LOTS AND USES IN R-1, SINGLE FAMILY RESIDENTIAL DISTRICT, SHALL HAVE AT LEAST THE FOLLOWING MINIMUM LOT AND YARD REQUIREMENTS:

1. Minimum lot area - 9,000 square feet
 - a. One (1) utility only - 15,000 square feet, or the greater square footage amount as may be required by the rules and regulations of the West Virginia Department of Health, Public Service Commission or other state agency.
 - b. No utilities - 20,000 square feet, or the greater square footage amount as may be required by the rules and regulations of the West Virginia Department of Health, Public Service Commission or other state agency.
2. Minimum lot width - Eighty-five feet (85').
 - a. One (1) utility only - Eighty-five feet (85').
 - b. No utilities - One hundred feet (100').

3. Minimum front yard - Thirty-five feet (35').
 - a. One (1) utility only - Thirty-five feet (35').
 - b. No utilities - Fifty feet (50').
4. Notwithstanding anything herein contained to the contrary, any lot shown upon a plat appearing of record in the Office of the Clerk of the County Commission of Upshur County, West Virginia, on or before December 31, 1972, shall be required to have only a minimum lot area of 5,000 square feet, a minimum lot width of fifty feet (50') and a minimum front yard of thirty-five feet (35') provided that two (2) or more utilities service said lot.
5. Side yards - Twenty-four feet (24'), total; Ten feet (10'), minimum per side.
 - a. Any lot platted prior to the enactment of these Standards which is less than seventy-five feet (75') wide may reduce the two (2) side yards by nine inches (9") for each foot of difference to a total width of not less than sixteen feet (16'). Under such circumstances, the width of the narrower of the two (2) side yards shall be not less than seven feet (7').
 - b. Street side on corner lot - fifteen feet (15').
 - c. Accessory uses to the rear of principal structures.
 - (1) Interior lot line - Five feet (5').
 - (2) Street or alley side of corner lot - Twenty-five feet (25').
6. Rear Yards
 - a. Principal - forty feet (40').
 - b. Accessory - five feet (5').
7. Maximum building height - two and one-half (2 1/2) stories or thirty feet (30'). Accessory structures shall not exceed the height of any principal structure.
8. Maximum lot coverage.
 - a. Principal use - Thirty percent (30%) of total lot area.
 - b. Accessory use - Forty percent (40%) of rear yard area.
- D. LOTS AND USES IN R-1, SINGLE FAMILY RESIDENTIAL DISTRICT, SHALL HAVE AT LEAST THE FOLLOWING MINIMUM OFF-STREET PARKING REQUIREMENTS:
 1. Two (2) spaces per dwelling unit, including garages and/or driveways.
 2. Public playgrounds or parks - as approved or designated by the Council of the City of Buckhannon.
 3. Also see Section 501.A.1. of these Standards.

SECTION 502. R-2, GENERAL RESIDENTIAL DISTRICT A:

- A. THE FOLLOWING BUILDINGS AND USES SHALL BE PERMITTED IN R-2, GENERAL RESIDENTIAL DISTRICT A:
 1. Any principal use permitted in the R-1, Single Family Residence District.
 2. Two (2) to six (6) family dwelling unit or apartments, subject to the lot area requirements per family as are contained herein.
 3. Beautician and barber shops.
 4. Fraternity and Sorority houses.
 5. Rooming houses, boarding houses, tourist homes, and bed and breakfast establishments.
 6. Child daycare centers.

7. Rest homes, nursing homes, convalescent care homes, adult care centers and other long term care facilities, however, nothing provided herein shall permit the location of hospitals or clinics within the R-2 District.
 8. Professional offices.
 9. Police, fire protection and municipal buildings.
 10. Radio and television stations, excluding commercial radio and television transmission facilities, such as towers and amplifiers.
 11. Museums, libraries, and registered state, national or historical landmarks.
 12. Neighborhood grocery stores, provided that, (1) not more than three (3) employees are working at the same time, and (2) the net floor area does not exceed one thousand five hundred square feet (1500'), excluding parking space.
 13. Public or private schools and colleges.
 14. Churches and other places of worship.
 15. Funeral homes and mortuary chapels.
- B. THE FOLLOWING ACCESSORY USES AND BUILDINGS SHALL BE PERMITTED IN R-2, GENERAL RESIDENTIAL DISTRICT A:
1. Any accessory use permitted in R-1, Single Family Residence District.
 2. Apartments over garages and other apartments, for occupancy either by members of the family of the owner of the residence property or by renters, subject to the provisions of Section 502(C) (1) (c) and (C) (2) (c), provided that:
 - a. Each apartment or living unit provides a minimum of not less than four hundred (400) square feet of habitable living area.
 - b. Each living unit contains not less than one (1) bathroom.
 - c. Each living unit contains separate and private sanitary facilities, cooking and dining accommodations.
 - d. Fire and safety provisions are certified to be adequate by the chief of the City Fire Department, and further meet any state or local health department requirements.
 3. Signs as follows:
 - a. Signs as are permitted in R-1, Single Family Residence Districts.
 - b. Signs identifying any business or non-residential use as permitted in R-2, General Residential District A, provided that said signs are set back a minimum of five feet (5') from all property lines, and in the case of corner lots, signs must also meet adequate sight triangle requirements located at a minimum distance of five feet (5') from the street right of way if no sidewalk exists and five feet (5') from the edge of the inside walk, if such a walk exists, and further providing that such signs do not exceed twelve square feet (12'). Such signs may have a reflective surface, and further may be illuminated from within only. Flashing signs are absolutely prohibited. The height of any sign shall not exceed twelve feet (12') as measured from the legitimate or average ground level to the top of the sign.
 4. Home occupations as a subsidiary and subordinate use to residential units provided that:
 - a. The residential unit portion of the building shall be the residence of the home occupant or professional.
 - b. The accessory use shall not occupy more than twenty-five percent (25%) of the ground floor area of the principal dwelling building, and shall be located entirely within the principal structure.

- c. The residential unit shall not in any event be used as an animal hospital, animal clinic or animal kennel, nor shall the residential unit be used in any other manner deemed by the Zoning Officer or the Zoning Board of Appeals to constitute a nuisance to the surrounding neighborhood.
- d. Use must be clearly incidental to the use as a residence.

C. LOTS AND USES IN R-2, GENERAL RESIDENTIAL DISTRICT A, SHALL HAVE AT LEAST THE FOLLOWING MINIMUM LOT AND YARD REQUIREMENTS:

- 1. Minimum lot area - 7,500 square feet (single family dwelling).
 - a. One (1) utility only - 15,000 square feet.
 - b. No utilities - 20,000 square feet.
 - c. For each family unit more than one (1) the lot area shall be increased by 1,250 square feet.
- 2. Minimum lot width - Sixty feet (60') (single family dwelling).
 - a. One (1) utility only - Eighty-five feet (85').
 - b. No utilities - One hundred feet (100').
 - c. For each family unit more than one (1) the minimum lot width shall be increased by ten feet (10').
- 3. Minimum front yard - Twenty-five feet (25').
 - a. One (1) utility only - Twenty-five feet (25').
 - b. No utilities - Fifty feet (50').

Notwithstanding anything herein contained to the contrary, any lot shown on a plat appearing of record in the Office of the Clerk of the County Commission of Upshur County, West Virginia, on or before December 31, 1972, shall be required to have only a minimum lot area of 5,000 feet, a minimum lot width of fifty feet (50') and a minimum front yard of twenty-five feet (25') providing that two (2) or more utilities service said lot. (The requirements for increasing minimum lot area and minimum lot width for family units more than one as hereinbefore set forth shall be applicable, to lots appearing on plats recorded on or before December 31, 1972).

- 5. Side yards - Twenty feet (20') total; Eight feet (8') minimum side.
 - a. Any lot platted prior to the enactment of these Standards which is less than sixty feet (60') wide may reduce the two (2) side yards by nine inches (9") for each foot of difference to a total width not less than fourteen feet (14'). Under such circumstances, the width of the narrower of the two (2) side yards shall not be less than five feet (5').
 - b. Street side on corner lot - twelve feet (12').
 - c. Accessory uses to the rear of principal structure.
 - (1) Interior lot line - five feet (5').
 - (2) Street side on corner lot - twenty-five feet (25').
- 6. Rear yards.
 - a. Principal - forty feet (40').
 - b. Accessory - five feet (5').
- 7. Maximum building height - Three (3) stories or thirty-five feet (35').
- 8. Maximum lot coverage.
 - a. Principal use - thirty percent (30%) of total lot area.
 - b. Accessory use - forty percent (40%) of rear yard area.

D. LOTS AND USES IN R-2, GENERAL FAMILY RESIDENTIAL DISTRICT A, SHALL HAVE AT LEAST THE FOLLOWING MINIMUM OFF-STREET PARKING REQUIREMENTS:

- 1. One (1) space per dwelling or residential unit. Each apartment shall be considered as a separate residential unit.

2. Recreational uses, not including public playgrounds or parks - one (1) per each 3,000 square feet of gross lot area, or portion thereof.
3. Churches, auditoriums, stadiums and other places of public assemblage as are expressly permitted in R-2, General District A - one (1) for each six (6) seats.
4. Home occupations - three (3) spaces.
5. Funeral homes, nursing homes, and rest homes - ten (10) spaces.
6. Rooming houses, boarding houses, tourist homes, and bed and breakfast establishments - one (1) space per sleeping room plus one (1) additional space for the owner or operator.
7. Child daycare and adult daycare facilities - two (2) spaces, plus one (1) additional space for each employee, if any.
8. Public playgrounds and parks - as approved by the Council of the City of Buckhannon.
9. Neighborhood Grocery Stores - two (2) for each 500 square feet of net floor area, or portion thereof, plus one (1) additional space for each employee.
10. Fraternity and sorority houses - one (1) space for every two (2) residents.
11. Professional offices - four (4) spaces for each professional person working within the office.
12. Beautician and barber shops - five (5) spaces, plus two (2) additional spaces for each chair in excess of two (2) chairs.

SECTION 503. R-3, GENERAL RESIDENTIAL DISTRICT B:

A. THE FOLLOWING USES AND BUILDINGS SHALL BE PERMITTED IN R-3, GENERAL RESIDENTIAL DISTRICT B:

1. Any and all lot uses, buildings, accessory uses, minimum lot and yard requirements, minimum off-street parking requirements, and any and all other requirements as provided in R-2, General Residential District A, shall apply to R-3, General Residential District B, except as otherwise specifically provided by this Section.
2. Mobile homes as defined in Article II, provided that there shall be full compliance with the requirements for placement of mobile homes as immediately hereinafter set forth by these Standards or as amended by ordinances of the City of Buckhannon as hereafter enacted, and provided further that any lot upon which a mobile home is placed shall meet the minimum lot and yard requirements for Single Family Residences in R-2, General Residential District A.
3. All mobile homes to be placed or which are proposed for placement within R-3, General Residential District B shall meet the following requirements:
 - a. The lot or parcel of land upon which the mobile home is proposed to be placed shall have approved sewerage and water facilities available, equipped with separate water meters for each mobile home.
 - b. Prior to the placement of any mobile home, application shall be made in writing to the Zoning Officer for approval for such placement. Each application shall contain and have filed therewith a map or plat showing thereon the lot or parcel of land upon which the mobile home is proposed to be placed along with the proposed placement location of the mobile home upon the lot or parcel of land. The

person making application for any mobile home placement shall remit a nonrefundable fee along with the proposed mobile home placement application, in the amount as established for the same by separate Ordinance by the City Council. In any event, with respect to the placement of any mobile home upon any lot or parcel of land, the larger dimension of the mobile home's length or width shall be placed or aligned parallel with the larger dimension of the lot's length or width, unless otherwise approved by the Zoning Officer or the Zoning Board of Appeals. Following the placement of any mobile home but prior to its actual occupancy, it shall be necessary for the owner or tenant thereof to obtain an occupancy permit, however, no additional fee shall be assessed for such occupancy permit.

- c. The placement of all mobile homes shall comply with all additional requirements as set forth in the City of Buckhannon's Flood Plain Ordinance No. 237.
- d. All mobile homes shall be maintained in a state of good repair at all times pursuant to the terms and provisions of the BOCA Building Code which is herein adopted pursuant to Section 625 hereof, the same as if the mobile home was a building.
- e. The lot or parcel of land upon which any mobile home is placed shall be subject to the various enumerated Sections of Article VI hereof, especially including but not limited to the appearance of the lot provisions of Section 602, and the minimum landscaping requirements of Section 632.
- f. Prior to occupancy, all mobile homes shall be properly, neatly and completely underskirted or underpinned, and shall further at all times thereafter be maintained in an underskirted or underpinned condition.

SECTION 504. R-4, MOBILE HOME PARK DISTRICT:

A. THE FOLLOWING BUILDING AND USES SHALL BE PERMITTED IN R-4, MOBILE HOME PARK DISTRICT:

- 1. Any and all lot uses, buildings, accessory uses, minimum lot and yard requirements, minimum off-street parking requirements, and any and all other requirements as provided in R-3, General Residence District B, except as otherwise specifically provided in this Section 504.
- 2. Mobile home parks are permitted in accordance with the following requirements:
 - a. No mobile home park shall be less than one (1) acre in size.
 - b. Minimum yard and area requirements shall be required for each mobile home placement as follows:
 - (1) Lot area - 4,000 square feet.
 - (2) Width - Forty feet (40').
 - (3) Depth - One hundred feet (100').
 - (4) Side yards - Twenty-four feet (24') combined; Ten feet (10') feet minimum per side.
 - c. Height - Sixteen feet (16') maximum.
 - d. Off-street parking for one (1) space per mobile home unit.
 - e. All public utilities, including water and sewerage, shall be provided for the mobile home park.
 - f. Mobile home parks shall provide a six feet (6') high fence or other six feet (6') high screen by the planting of trees, evergreens, hedges or shrubs on the rear and side property lines.
 - g. Mobile home park size and design shall be subject to the approval of both the Planning Commission of the City of Buckhannon and the City Council, and public utilities servicing any mobile home park shall be subject to the approval of the City Council.
 - h. Mobile home parks shall further comply with all requirements as set forth in the City of Buckhannon's Flood Plain Ordinance No. 237.
 - i. Any and all signs identifying any mobile home park shall meet the

sign requirements as are herein provided for R-2, General Residential District A.

SECTION 505. R-5, PUBLIC HOUSING PROJECT DISTRICT:

A. THE FOLLOWING BUILDINGS AND USES SHALL BE PERMITTED IN R-5, PUBLIC HOUSING PROJECT DISTRICT:

1. Any and all lot uses, buildings, accessory uses, minimum lot and yard requirements, minimum off-street parking requirements, and any and all other requirements as provided in R-2, General Residence District A, except as otherwise specifically provided in this Section 505.
2. All public housing facilities and accessory uses thereof (i.e., either single family or multiple family housing units which are either owned or operated by the government, or which are constructed or subsidized in whole or in part with governmental funds), including, but not being limited to, low rent housing units, housing for the elderly or other similar public housing facilities.

B. ALL LOTS AND USES IN R-5, PUBLIC HOUSING PROJECT DISTRICT, SHALL HAVE AT LEAST THE FOLLOWING MINIMUM LOT AND YARD REQUIREMENTS:

1. Minimum lot area - 10,000 square feet.
2. Minimum lot width - One hundred feet (100').
3. Minimum front yard - Twenty-five feet (25').
4. Side yards - Fifteen feet (15').
5. Rear yards.
 - a. Principal use - Forty feet (40').
 - b. Accessory use - Five feet (5').
6. Maximum building heights - nine (9) stories or ninety feet (90'), whichever is greater, providing that outside or enclosed fire escapes shall be provided for all buildings with more than two (2) stories or which are greater than thirty feet (30') in height and providing that the construction of said building meets the fire standards and regulations of the Fire Marshal of the State of West Virginia, and the Fire Chief of the City of Buckhannon. Elevator shafts, air conditioning or heating units, chimney or ventilating pipes which are affixed or attached to the roofs of the buildings shall not be included within the measurements for maximum building height.
7. Maximum lot coverage - No requirement, except as necessary for off-street parking and loading as provided herein.

C. OFF-STREET PARKING AND LOADING REQUIREMENTS:

1. Off-street parking requirements shall be the same as those requirements which are set forth for R-2, General Residential District A.
2. Loading requirements shall be determined by the Council upon application in writing, with the Council to give consideration to the nature of the facility, need for loading facilities, and availability of on-street or off-street loading areas.

SECTION 506. C-1, CENTRAL COMMERCIAL BUSINESS DISTRICT:

A. THE FOLLOWING USES AND BUILDINGS SHALL BE PERMITTED IN C-1, CENTRAL COMMERCIAL BUSINESS DISTRICT:

1. All residential and non-residential uses as are permitted in R-2 General Residential District A, and such other uses as are immediately hereinafter set forth, provided however, that none of the uses as permitted by this Section 506 shall interfere with the peaceful enjoyment of properties located within any adjacent residential district by reason of lights, noise or any other physical disturbance emanating from the Central Commercial Business District.
2. Retail businesses, banks, and offices when all business transactions are conducted entirely within buildings.
3. Restaurants, cafes, motels and hotels, motion picture theatres, bowling alleys, and other places of public amusement conducted entirely within buildings.
4. Service establishments including but not limited to, barber and beauty shops, custom tailor shops, laundramats, self-service laundries, hand laundries, shoe repair shops, and dry cleaning, within which only non-explosive and nonflammable solvents and materials are used.
5. Minor manufacturing, but only when retail sales are also conducted on the premises, and further providing that not more than five (5) persons are employed during any single shift in such minor manufacturing.
6. Automobile sales, provided that all business transactions are conducted entirely within a permanent building located upon the premises and not within a temporary building or structure nor within a mobile home.
7. Automobile repair of any kind, including but not limited to mechanical repair, body work, painting, welding and tire repair, when conducted entirely within a building and further when located at least one hundred feet (100') from any adjoining residential district.
8. Public parking lots and parking garages.
9. Outdoor recreational uses.
10. Gasoline stations and other drive-thru uses, as special exceptions when the Zoning Board of Appeals determines following a public hearing that such use will not create hazardous conditions and will otherwise meet the following requirements and the requirements of Section 623 hereof. No street entrance or exit for vehicles and no portion or equipment of such service station or other drive-thru uses shall be located:
 - (a) Within two hundred feet (200') of a street entrance or exit of any school, park or playground.
 - (b) Within one hundred feet (100') of any hospital, church or public library.
 - (c) Within one hundred feet (100') of any lot located in any residential district as established by these Standards.
11. Apartment houses or apartment buildings.
12. Municipal, County, State and Federal buildings.
13. Grocery stores and supermarkets.

B. THE FOLLOWING ACCESSORY USES AND BUILDINGS SHALL BE PERMITTED IN C-1, CENTRAL COMMERCIAL BUSINESS DISTRICT:

1. All accessory uses as are permitted in R-2, General Residential District A.
2. Accessory uses on the same lot with, and customarily incidental to the principal use.
3. Signs, including advertising signs, are permitted as follows:
 - a. Signs directly relating to a use conducted upon the premises provided that the cumulative square footage of all of such signs, shall not exceed in square footage one-half (1/2) of the lineal feet of street frontage, but provided further, however, that any single sign shall not exceed forty square feet (40').
 - b. No sign shall exceed the height of the principal structure, or twenty-five feet (25'), whichever is greater.
 - c. All signs shall be attached to the principal building, the business of which said signs are identifying, and further shall not extend out from the surface of said building more than twelve inches (12"), except that signs not exceeding six square feet (6') in area shall be permitted to be installed in such a manner so as to extend out from the surface of said building not more than forty-eight inches (48").
 - d. Signs directing and guiding traffic and parking, or designating private parking but which bear no advertising matter.

C. ALL LOTS AND USES IN C-1, CENTRAL COMMERCIAL BUSINESS DISTRICT, SHALL HAVE AT LEAST THE FOLLOWING MINIMUM LOT AND YARD REQUIREMENTS:

1. Minimum lot area - 2,000 square feet.
2. Minimum lot width - Twenty feet (20').
3. Minimum front yard - no requirement.
4. Side yards.
 - a. Adjoining commercial and industrial districts - no requirement.
 - b. Adjoining residential districts - Fifteen feet (15').
5. Rear Yards.
 - a. Adjoining existing alley or alleys of record - Thirty-five feet (35').
6. Maximum building height - Nine (9) stories or ninety feet (90'), provided that outside or enclosed fire escapes shall be provided for buildings with more than two (2) stories or thirty-five feet (35') in height.
7. Maximum lot coverage - no requirement, except as necessary for off-street loading and parking as provided herein.

D. FOLLOWING MINIMUM OFF-STREET PARKING AND LOADING REQUIREMENTS:

1. Parking requirements:
 - a. None, except for apartments, which shall have a minimum of one (1) per unit.
2. Loading requirements:
 - a. Retail or personal service use - one (1) unit for each 3000 square feet or portion thereof of net floor area.

- b. Wholesaling, merchandising, storage or processing - one (1) unit for each 3000 square feet or portion thereof of floor area.
- c. Loading requirements may be waived by City Council if deemed necessary when adequate on-street loading areas are available.

SECTION 507. C-2, HIGHWAY COMMERCIAL DISTRICT:

A. THE FOLLOWING USES AND BUILDINGS SHALL BE PERMITTED IN C-2, HIGHWAY COMMERCIAL DISTRICT:

- 1. All retail stores and shops as are permitted in C-1.
- 2. Establishments such as barber or beauty shops, public or professional offices, dry cleaning or laundry pick-up stations, self-service laundry, drug stores, grocery stores, hardware stores, minor appliance repair stores, shoe repair stores and other similar uses.
- 3. Restaurants, cafes, motels and hotels.
- 4. Drive-thru uses, including retail, food and amusement centers, both private and public.
- 5. Gasoline stations, subject to the provisions and regulations of Section 506.A.10. hereof.
- 6. Automobile sales, subject to the provisions and regulations of Section 506.A.6. hereof.
- 7. Automobile repair garages, subject to the provisions and regulations of Section 506.A.7. hereof.
- 8. Wholesale establishments and warehouses, except storage of wrecked and junk vehicles.
- 9. All residential and non-residential uses as are permitted in R-2.

B. THE FOLLOWING ACCESSORY USES AND BUILDINGS SHALL BE PERMITTED IN C-2, HIGHWAY COMMERCIAL DISTRICT:

- 1. Accessory uses on the same lot with, and customarily incidental to the principal use.
- 2. Signs are permitted as follows:
 - a. Signs directly relating to a use conducted upon the premises provided that the cumulative square footage of all of such signs shall not exceed in square footage one-half (1/2) of the lineal feet of street frontage, but provided further, however, that any single sign shall not exceed forty square feet (40').
 - b. No sign shall exceed the height of the principal structure, or twenty-five feet (25'), whichever is greater.
 - c. No more than one (1) of such signs may be of a free-standing kind, and all other signs shall be attached to the principal building, the business of which said signs are identifying, and further shall not extend from the surface of said building more than twelve inches (12").

C. LOTS AND USES IN C-2, HIGHWAY COMMERCIAL DISTRICT, SHALL HAVE AT LEAST THE FOLLOWING MINIMUM YARD AND AREA REQUIREMENTS:

- 1. Minimum lot area - 10,000 square feet.
 - a. One (1) utility only - 15,000 square feet.
 - b. No utilities - 20,000 square feet.

2. Minimum lot width - Seventy-five feet (75').
 - a. One (1) utility only - Eighty-five feet (85').
 - b. No Utilities - One hundred feet (100').
 3. Minimum front yard - Thirty-five feet (35').
 - a. One (1) utility only - Fifty feet (50').
 - b. No utilities - Seventy-five feet (75').
 4. Side yards - Twenty feet (20') total, Eight feet (8') minimum per side.
 - a. Adjoining residential districts - Twenty feet (20') toward the side abutting the residential district.
 5. Minimum rear yard - Twenty-five feet (25').
 6. Maximum building height - Forty-five feet (45') or four (4) stories, whichever is greater.
 7. Maximum lot coverage - fifty percent (50%).
 8. Accessory buildings to be located at least five feet (5') from all property lines.
 9. Maximum lot depth: 240 feet. No highway commercial district land may extend across any City street or alley.
 10. All land parcels districted as "Highway Commercial" shall front on, or adjoin a state or federal highway.
- D. LOTS AND USES IN C-2, HIGHWAY COMMERCIAL DISTRICT, SHALL HAVE AT LEAST THE FOLLOWING MINIMUM OFF-STREET PARKING REQUIREMENTS:
1. One (1) space for each one hundred square feet (100') of net sales floor area plus one (1) space for every two (2) employees, except in integrated shopping centers, e.g., strip malls, etc., where there shall be one (1) space for each two hundred square feet (200') of net sales floor area plus one (1) space for every two (2) employees.
 2. One (1) space per dwelling unit.
 3. Spaces as required for R-2 business uses.

SECTION 508. C-3, NEIGHBORHOOD COMMERCIAL DISTRICT:

- A. THE FOLLOWING BUILDINGS AND USES SHALL BE PERMITTED IN C-3, NEIGHBORHOOD COMMERCIAL DISTRICT:
1. Any principal use as permitted in the R-2, General Residential District A, including but not being limited to neighborhood grocery stores, barber or beauty shops, and professional offices, all of which are more particularly described pursuant to Section 502.A.3., 8. and 12. of these Standards.
 2. In addition to those principal uses permitted pursuant to Section 508.A.1. hereof, land and buildings may also be used for the operation of small, neighborhood retail businesses and service establishments, supplying commodities or performing services intended primarily for residents of the surrounding area, provided that, the net floor area of any such retail business or service establishment as permitted pursuant to the terms hereof shall not exceed one thousand five hundred square feet (1500') with a maximum of one (1) business or establishment being located within any building, and including the following:
 - a. Dry cleaning or laundry pick-up stations and self-service laundries.
 - b. Drug stores.

- c. Hardware stores.
- d. Minor appliance repair stores.
- e. Shoe repair stores.
- f. Retail clothing and shoe outlets.
- g. Restaurants, ice cream parlors, and cafes.
- h. Book, gift and greeting card stores.
- i. Retail outlets selling audio/video, musical or art supplies and products, such as but not necessarily limited to phonograph albums, audio/video tapes, stereo tapes, stereo products, posters, paintings, etc.
- j. Silk screening retail outlets.

B. THE FOLLOWING ACCESSORY USES AND BUILDINGS SHALL BE PERMITTED IN C-3, NEIGHBORHOOD COMMERCIAL DISTRICT:

- 1. Accessory uses on the same lot with, and customarily incidental to, the principal use.
- 2. Signs directly relating to a use conducted upon the premises provided that:
 - a. All signs shall be attached to the principal building.
 - b. Signs shall not exceed twelve square feet (12') in area.
 - c. Signs shall not be installed in any manner so as to extend out from the surface of said building more than twelve inches (12"), except that signs not exceeding six square feet (6') in area shall be permitted to be installed in such a manner so as to extend out from the surface of said building not more than forty-eight inches (48").

C. LOTS AND USES IN C-3, NEIGHBORHOOD COMMERCIAL DISTRICT, SHALL HAVE AT LEAST THE FOLLOWING MINIMUM LOT AND YARD REQUIREMENTS:

- 1. Minimum lot area - 10,000 square feet.
 - a. One (1) utility only - 15,000 square feet.
 - b. No utilities - 20,000 square feet.
- 2. Minimum lot width - Seventy-five feet (75').
 - a. One (1) utility only - Eighty-five feet (85').
 - b. No utilities - One hundred feet (100').
- 3. Minimum front yard - 35 feet.
 - a. One (1) utility only - 35 feet.
 - b. No utilities - 50 feet.
- 4. Notwithstanding anything herein contained to the contrary, any lot shown upon a plat recorded in the County Clerk's Office on or before December 31, 1972, shall be required to have only a minimum lot area of 5,000 feet, a minimum lot width of fifty feet (50'), and a minimum front yard of thirty-five feet (35'), provided that two (2) or more utilities service said lot. (The requirements for increasing minimum lot area and minimum lot width for family units numbering more than one as hereinbefore set forth under Section 502 hereof, shall be applicable, to lots appearing upon plats recorded on or before December 31, 1972).
- 5. Side yards.
 - a. Individual buildings - twenty feet (20') total; eight (8') minimum side.
 - b. Integrated places.

- (1) Adjoining residential districts - twenty feet (20').
 - 6. Rear yards.
 - a. Adjoining residential districts - forty feet (40').
 - b. Adjoining commercial or industrial districts - twenty-five feet (25').
 - 7. Maximum building height - thirty-five feet (35').
 - 8. Maximum lot coverage - fifty percent (50%).
 - D. LOTS AND USES IN C-3, NEIGHBORHOOD COMMERCIAL DISTRICT SHALL HAVE AT LEAST THE FOLLOWING MINIMUM OFF-STREET PARKING REQUIREMENTS:
 - 1. Two (2) for each 500 square feet of net floor area or portion thereof, plus one (1) additional space for each employee.
 - 2. One (1) space per dwelling unit.
 - 3. Spaces as required in R-2 for various business uses.
- FOLLOWING MINIMUM OFF-STREET PARKING REQUIREMENTS:
- 1. Two (2) for each 500 square feet of net floor area plus one (1) space for every two (2) employees.
 - 2. Restaurants or other places serving food or beverages for consumption on the premises, one (1) space for every three (3) seats.
 - 3. Motor vehicles' sales rooms, garages and repair shops where permitted, one (1) space for each 500 square feet of floor space.
 - 4. Drive-thru uses, i.e., establishments where motorists would not ordinarily exit their vehicles; such as drive-thru convenient stores, car washes, banks and restaurants - ten (10) spaces.
 - 5. Recreational uses - one (1) space for each 3000 square feet of gross lot area.
 - 6. Bowling alleys - three (3) spaces per alley.

SECTION 509. I, INDUSTRIAL DISTRICT

- A. THE FOLLOWING USES AND BUILDINGS SHALL BE PERMITTED IN I, INDUSTRIAL DISTRICT, PROVIDED that any of such permitted uses, including any manufacturing, compounding, processing, packing or treatment, shall not produce or emit excessive dust, smoke, refuse matter, toxic or noxious odors, gases and fumes, excessive noise or vibrations, or any similar substances or conditions infringing upon the public safety or deemed to create a public hazard.
 - 1. Any residential or commercial use as permitted in either R-3, General Residence District B, or C-3, Neighborhood Commercial.
 - 2. Building material supplies, such as stone crushing, concrete mixing, sawmills, and timber and lumber sales, processing and fabrication.
 - 3. Distributing plants, such as beverage bottling and/or distribution.
 - 4. Laboratories devoted to research, design, experimentation, processing and fabrication, incidental thereto.
 - 5. Printing, publishing and allied processes.
 - 6. Carpentry, electrical, plumbing, heating and sheet metal shops, furniture upholstering shops, laundries and clothes cleaning or dyeing

establishments.

7. The manufacture, compounding, processing, packaging and treatment of such products as bakery goods, candy, cosmetics, pharmaceuticals, toiletries and food products.
 8. The manufacture, compounding, assembling or treatment of articles of merchandise from the following previously prepared materials: bone, canvas, cellophane, cloth, cork, feathers, felt, fibre, fur, glass, hair, horn, leather, paper, plastics, precious or semi-precious metals or stone, shell, textiles, tobacco, wax, wood or yarn.
 9. The manufacture of ceramic products.
 10. The manufacture of musical instruments, toys, novelty items, rubber or metal stamps, and other small moulded rubber products.
 11. The manufacture or assembly of electrical appliances, computer equipment and other electronic instruments and devices.
 12. Utility operations.
 13. Trucking and railroad freight, transportation and warehousing.
 14. Any other industrial or manufacturing plant or process which does not involve any of the following operations which are hereby expressly prohibited:
 - a. Abattoirs or slaughterhouses;
 - b. Dead animal or offal reduction;
 - c. Junk yards and automobile salvage yards;
 - d. Fertilizer manufacturing;
 - e. Pulp or paper manufacturing plants; and
 - f. Any other noise, odor, dust, hazard creating or nuisance bearing activities, services or manufacturing processes.
- B. THE FOLLOWING ACCESSORY USES AND BUILDINGS SHALL BE PERMITTED IN I, INDUSTRIAL DISTRICT:
1. Any accessory use relating to a legal use of the lot.
 2. Accessory buildings shall be located at least five feet (5') from all property lines.
 3. Signs as are permitted in C-2.
- C. LOTS AND USES IN I, INDUSTRIAL DISTRICT, SHALL HAVE AT LEAST THE FOLLOWING MINIMUM LOT AND YARD REQUIREMENTS:
1. Minimum lot area - 10,000 square feet.
 2. Minimum lot width - One hundred feet (100').
 3. Minimum front yards - Twenty feet (20'), except when adjoining a residential district, then thirty-five feet (35').
 4. Side yards - Twenty feet (20') total; eight feet (8') minimum side.
 5. Rear yard - Twenty-five feet (25').
 - a. Adjoining residential district - Forty feet (40').
 6. Maximum lot coverage - fifty percent (50%).

D. LOTS AND USES IN I, INDUSTRIAL DISTRICT, SHALL HAVE AT LEAST THE FOLLOWING MINIMUM OFF-STREET PARKING AND LOADING REQUIREMENTS:

1. Parking requirements as approved by City Council.
2. Loading requirements as approved by City Council.

SECTION 510. P, PERMANENT PRESERVE DISTRICT.

A. THE FOLLOWING USES ARE PERMITTED IN P, PERMANENT PRESERVE DISTRICT:

1. Areas of excessive slope, inaccessible or remnants of land not suited for general uses, and areas subject to frequent flooding, may be used for the following purposes or comparable purposes, if, in the opinion of the Zoning Board of Appeals, the uses are suited to the characteristics of the land and are considered as being compatible with adjacent land uses. All uses in this District shall be permitted by the Zoning Board of Appeals only as special exceptions. Suggested uses, all of which shall require the specific consent of the Zoning Board of Appeals, are:
 - a. Recreational uses
 - b. Tree nurseries
 - c. Commercial forests

SECTION 511. A, AGRICULTURAL DISTRICT

A. THE FOLLOWING BUILDINGS AND USES SHALL BE PERMITTED IN A, AGRICULTURAL DISTRICT, PROVIDED that the following uses shall be prohibited: abattoirs, slaughterhouses, and dead animal or offal reduction plants.

1. Any uses permitted in the R-2, Residential District - A.
2. Any agricultural land use, buildings and activities except the disposal of garbage and offal.
3. Agricultural and wood processing industries and agricultural warehouses such as curing or drying kilns and other operations involving the processing or storage of agricultural, timber and lumber products.
4. Outdoor recreational uses.
5. Horse and pony stables and riding academies.
6. Cemeteries and mausoleums.
7. Airports and airplane landing fields.

B. THE FOLLOWING ACCESSORY BUILDINGS AND USES SHALL BE PERMITTED IN A, AGRICULTURAL DISTRICT:

1. All accessory uses as are permitted in R-2.
2. Accessory buildings, such as tool or garden sheds, chicken houses, barns, silos, corn cribs, smoke houses and private garages.
3. Roadside stands selling products produced upon the premises, provided that display counters and stands shall be erected at least thirty-five feet (35') from the road right of way.
4. Signs as are permitted in R-2:
 - a. Professional uses, home occupations not more than twelve square feet (12') in area.
 - b. Three (3) signs per location not exceeding forty square feet (40') each in area and relating to the sale of farm products produced thereon.

C. BUILDINGS AND USES IN A, AGRICULTURAL DISTRICT SHALL HAVE AT LEAST THE FOLLOWING MINIMUM LOT AND YARD REQUIREMENTS:

1. Minimum lot area - 10,000 square feet.
2. Minimum lot width - One hundred feet (100').
3. Minimum front yard - Fifty feet (50').
4. Side yards - Twenty-four feet (24') total; ten feet (10') minimum side.
5. Rear yards
 - a. Principal building - forty feet (40').
 - b. Accessory building - five feet (5').
6. Maximum building height - Two and one-half (2 1/2) stories or thirty feet (30'), whichever is greater.
7. Maximum lot coverage - thirty percent (30%).

D. BUILDINGS AND USES IN A, AGRICULTURAL DISTRICT SHALL HAVE AT LEAST THE FOLLOWING MINIMUM OFF-STREET PARKING REQUIREMENTS:

1. Two (2) spaces per dwelling unit.
2. Roadside stand parking units shall be located a minimum of ten feet (10') from the road right of way.
3. Recreational uses, one (1) per 3000 square feet of gross lot area.

SECTION 512. M, MEDICAL DISTRICT:

A. THE FOLLOWING BUILDINGS AND USES SHALL BE PERMITTED IN M, MEDICAL DISTRICT:

1. Any uses permitted in R-2 Residential District - A.
2. Hospitals, nursing homes, rest homes, personal care homes, extended care facilities, sanitariums and medical clinics which are licensed by the West Virginia Department of Health or other state or municipal agencies which issue licenses to such facilities, and office buildings for physicians, dentists, optometrists, osteopaths, chiropractors and any other medically related services.

B. THE FOLLOWING ACCESSORIES, USES AND BUILDINGS SHALL BE PERMITTED IN M, MEDICAL DISTRICT:

1. Any accessory uses permitted in R-2, Residential District - A.
2. Any reasonably necessary accessory uses.

C. ALL LOTS AND USES IN M, MEDICAL DISTRICT, SHALL HAVE AT LEAST THE FOLLOWING MINIMUM LOT AND YARD REQUIREMENTS:

1. Minimum lot area - 10,000 square feet.
2. Minimum lot width - One hundred feet (100').
3. Minimum front yard - Twenty-five feet (25').
4. Side yards
 - a. Adjoining commercial and industrial districts - no requirements.
 - b. Adjoining residential districts - fifteen feet (15').
 - c. Adjoining streets or alleys - fifteen feet (15').
5. Rear yards - Forty feet (40').

6. Maximum building height - four (4) stories or fifty feet (50'), whichever is greater, providing that outside or enclosed fire escapes shall be provided for all buildings with more than two (2) stories or greater than thirty feet (30') in height and providing that the construction of said building meets the fire standards and regulations of the Fire Marshal of the State of West Virginia, and the Fire Chief of the City of Buckhannon.
7. Maximum lot coverage - no requirement, except as necessary for off-street loading and parking as provided herein.

D. OFF-STREET PARKING AND LOADING REQUIREMENTS:

1. Off-Street Parking.
 - a. Business activities as are permitted in R-2 shall have the same off-street parking requirements as set forth for R-2, General Residential District - A.
 - b. All other uses shall be approved by City Council
2. Loading requirements as approved by City Council.

ARTICLE VI

GENERAL REGULATIONS

The provisions of these Standards shall be subject to such exceptions, additions, modification or further explanation as are herein provided by the following general regulations:

SECTION 600. ESSENTIAL SERVICES:

Essential service buildings and structures, as defined in these Standards, may be located in all districts, subject to restrictions approved by the Zoning Board of Appeals with respect to use, design, yard area, setback and height.

SECTION 601. STORAGE:

No lot, premises, building or structure shall be used as a garbage, trash, debris, abandoned vehicle or refuse dump. No manure, rubbish or miscellaneous refuse may be stored in the open within any district where the same is deemed by the Zoning Officer to constitute a hazard to the public health or safety.

SECTION 602. APPEARANCE OF THE LOT:

All buildings, structures and lots shall be kept and maintained at all times in a clean, neat and presentable appearance. The grass lawns of all lots, including but not limited to vacant or unimproved lots, but not including lots located within the Agricultural District - A, shall be kept cut, and in any event, lawns shall not be permitted to grow to a height of more than eight inches (8"). Trees, shrubs and other vegetation shall be kept and maintained in a well-groomed manner, and further so as not to obstruct the sight triangle. In addition to the penalties hereinafter provided by these Standards for a violation of this Section, any person failing to abide by the terms hereof, may be subject to a finding and directive by the City Council that either City personnel or a privately employed independent contractor enter upon the subject lot for purposes of conducting all work necessary to bring the lot into compliance with the terms hereof. In such last event, the lot owner shall be assessed with all costs incurred in bringing the lot into compliance with the terms hereof. Further in the case of the City Council directing its personnel or a privately employed independent contractor to enter upon any lot in violation of the terms hereof, the lot owner shall be exclusively liable for any damages or injuries resulting to any property or persons while any of such remedial operations are being conducted.

SECTION 603. LOT AREA MEASUREMENT:

For the purposes of measuring lot area on exceptionally deep lots, only that part of the depth which is less than six (6) times the average width of the lot may be utilized in calculations.

SECTION 604. YARD REQUIREMENTS:

a. The following may project into the required yards as established herein:

1. Steps or stoops not exceeding forty square feet (40') of area.
2. Eaves, cornices and belt courses not exceeding four feet (4').
3. Open fire escapes as approved or required by State Law or the State Fire Marshal or the Fire Chief of the City of Buckhannon.

b. For the purposes of determining the yard requirements of these Standards, the front yard shall deem to be that area located in closest proximity to the nearest public street. For purposes of this Section, a public alley shall not be construed to be a public street.

SECTION 605. FENCES, HEDGES OR OTHER PLANTINGS, STRUCTURES OR WALLS:

Fences, hedges or other plantings, structures or walls, shall not be located on any lot so as to encroach upon any street, alley or sidewalk right of way, and on corner lots, shall not in any event be located closer than five feet (5') to the corner points of the sight triangle in order to facilitate vision across such corner lot by motorists and pedestrians. Any such fences, hedges or other plantings, structures or walls violating the provisions hereof may be removed without liability for damages by direction of the City Council. Fences shall not be built with, or composed of dangerous materials such as barbed wire or so as to be electrified. Height of fences shall be restricted to a maximum height of six feet (6') on rear property lines and side property lines behind the setback requirement as set forth in Section 609, otherwise fences shall be restricted to a maximum height of four feet (4').

SECTION 606. SWIMMING POOLS, PONDS AND ANY STATIONARY OR NON-FLOWING POOLS OF WATER OR OTHER LIQUIDS:

Private swimming pools shall be permitted only when located in rear yards, and further when completely enclosed by a fence or buildings or combination thereof of a height of six feet (6') in the case of fences, and six feet (6') or greater in the case of buildings, and generally protected in such a manner so as to avoid becoming an attractive nuisance especially to children.

SECTION 607. REAR DWELLINGS:

No building located to the rear of a principal structure located upon the same lot may be used for living purposes in a residential district, except as otherwise specifically permitted herein.

SECTION 608. CEILING CLEARANCE REQUIREMENT

All buildings, whether residential or commercial, shall be required to have at least seven feet (7') of ceiling clearance.

SECTION 609. SETBACK:

Where one (1) or more preexisting structures is located upon adjacent lots within one hundred fifty feet (150') in all directions of a proposed structure, such proposed structure's setback shall conform with the average setbacks of the preexisting structures. This Section shall not apply where seventy-five percent (75%) or more of the lots located within a given block, contain one-half (1/2) acre or more. Under no circumstance, however, shall any

building be required to be constructed or reconstructed closer than fifteen feet (15') to the front lot line.

SECTION 610. REDUCTION IN LOT AREA:

Any lot area, though it may be comprised of one (1) or more adjacent lots of record, shall not be reduced so that the yard lot area per family, lot width, building area or other requirements of these Standards are not maintained, essential services excepted.

SECTION 611: HEIGHT MEASUREMENT:

Measurement of height shall be the vertical height from the average elevation of finished grade at the front of the structure to:

- A. In case of flat roof structures - highest point of coping.
- B. In case of mansard roof structures - deck line of roof.
- C. In case of gable or hipped roof - average height of roof.

SECTION 612. HEIGHT EXCEPTIONS:

The height limitation of these Standards shall not apply to flag poles, church spires, belfries, domes or similar projections not used for human occupancy nor to chimneys, ventilations, sky lights, elevator shafts, water tanks, essential service facilities, bulk heads, silos, television reception and radio dishes or antennae, and any other necessary mechanical and operational apparatus usually conducted above roof level.

SECTION 613. GROUP HOUSING:

In cases of Group Housing, two (2) or more buildings constructed upon a plot of ground, not subdivided into the customary lots and streets and which will not be subdivided, or where the existing or contemplated street and lot layout make it impractical to apply the requirements of these Standards to the individual building units in such group housing, the application of the terms of these Standards may be varied by the Zoning Board of Appeals in a manner which will be in harmony with the character of the neighborhood.

The Zoning Board of Appeals shall authorize such construction subject to the following:

- A. Only uses as permitted within the District of such requests may be located within the District.
- B. Per family lot area in accordance with minimum lot requirements of the subject district shall be achieved.
- C. Height, yard and lot coverage requirements in accordance with the requirements for the District in which such requests are to be located shall be achieved.

SECTION 614. OFF-STREET PARKING AND LOADING:

For every building hereinafter erected, altered, used or otherwise hereinafter established there shall be provided adequate off-street parking and loading as required by these Standards for the appropriate district. Access and turning areas shall be paved. Lot and parking areas shall be either paved or gravelled. Sufficient off-street parking and loading areas shall be provided to conform with the minimum quantity hereinbefore provided or to satisfy requirements of normal conditions, whichever is the more restrictive. All such off-street parking and loading space required shall be located upon the same lot as the principal structure, except that the Zoning Board of Appeals by variance, may permit off-street parking space to be located beyond the lot upon which the principal is located, provided that such parking space is located wholly within three hundred feet (300') of the principal structure.

SECTION 615: ANNEXED AREAS:

For zoning purposes all areas annexed to the City following the adoption of this Ordinance shall be classified as R-1, Single Family Residence District, until such annexed areas may be otherwise zoned.

SECTION 616. INITIAL PLACEMENT AND/OR REPLACEMENT OF TRAILERS OR MOBILE HOMES:

Trailers or mobile homes may be located upon lots situated in Zoning Districts in R-3, R-4 and I only, PROVIDED that there shall be full compliance with all requirements and provisions for the initial placement of trailers or mobile homes as set forth in Section 503.A.3. of these Standards or by Ordinances of the City of Buckhannon as are hereafter enacted. Trailers or mobile homes may be replaced upon lots situated in Zoning Districts R-2, R-3, R-4 and I only, PROVIDED that any such replacement shall meet with the full compliance of the initial placement requirements of Section 503.A.3. of these Standards. Nothing herein shall be construed to permit the initial placement of trailers or mobile homes in Zoning Districts R-1, R-2, R-5, C-1, C-2, C-3, P, A and M following the enactment of these Standards, nor shall any provision herein be construed to permit the replacement of trailers or mobile homes in Zoning District R-1 or in any other Zoning District where the replacement of trailers or mobile homes is not specifically and expressly permitted by these Standards.

SECTION 617. TERMINATION OF ZONING PERMITS:

Approved zoning permit applications shall be valid for only a period of six (6) months following the date of written approval by the Zoning Officer. Construction of any approved structure shall commence during said six (6) month period, and if not, any such zoning permit and any other municipally issued permits, shall then be void and invalid.

SECTION 618. NON-TRANSFER OF PERMITS:

Approved zoning permit applications shall not be transferable from one person to another.

SECTION 619. APARTMENTS:

All apartments, new or conversion, located in permitted districts, must conform to the regulations as specified in Section 502-B-2 of these Standards.

SECTION 620. SIGNS:

See the specific zoning district to determine the permitted dimensions or area footage for signs.

- a. Notwithstanding variations in permitted dimensions or square feet area, the use or installation of any flashing, moving or intermittent signs, including but not limited to signs resembling traffic control devices, is absolutely prohibited.
- b. Any temporary or movable sign, i.e., signs not mounted to the ground or to a building or structure, may be placed only in permitted zoning districts and shall not interfere with the sight triangle, and further, when lighted shall be safely and properly wired, and shall conform to any and all applicable fire and building code requirements.

SECTION 621. LIGHTING:

Lighting poles for off-street parking in all residential districts and in the medical district shall not exceed twenty feet (20') in height, and in all other districts shall not exceed forty feet (40') in height, and further in all districts, shall be hooded or otherwise constructed so as to direct lighting into the parking areas, and away from any adjoining residential districts.

SECTION 622. STORAGE TANKS:

The location, installation, construction, operation, repair and maintenance of all underground storage tanks, whether or not the same shall contain flammable materials or hazardous wastes, and any storage tank located above the ground which shall contain flammable materials or hazardous wastes, together with any and all necessary piping, conduit and all other accessories and equipment shall be carried out with and only with the express written approval of the Council of the City of Buckhannon, and shall further meet any and all requirements and standards as provided for by any governmental agency, including but not limited to the U.S. Environmental Protection Agency and the West Virginia Department of Natural Resources.

SECTION 623. VEHICULAR ENTRANCES AND EXITS:

- a. The width of any entrance and exit driveway leading to or from any public street to any commercial structure or establishment, whether said commercial structure or establishment is located as permitted in a residential or in a commercial district, shall not exceed thirty feet (30') at its intersection with the curb line or the edge of the pavement.
- b. No two (2) driveways leading from any public street to such commercial structure or establishment as provided for in Subsection (a) hereof, shall be located within fifteen feet (15') of each other at their intersection with the curb or street line.
- c. Parking and vehicular ingress, egress and regress shall be located in such a manner so as to eliminate the backing of vehicles over sidewalks or into the public streets.
- d. All entrances and exits shall be located in such a manner so as to maximize safe visibility for both motorists and pedestrians.

SECTION 624. ADOPTION OF STATE AND NATIONAL FIRE CODES:

a. The applicable requirements of the State of West Virginia's Fire Code as provided by Chapter 29, Article 3, Section 1 et seq. of the West Virginia Code, as presently enacted or as may be hereafter enacted or amended, and the applicable requirements of the Building Officials & Code Administrators International, Inc. (BOCA) National Fire Prevention Code, as presently enacted or as may be hereafter enacted or amended are hereby expressly adopted and enacted by the Council of the City of Buckhannon. In any case where the requirements of the two (2) aforesaid Fire Codes differ or vary in any way, the more restrictive requirement as applied to any building or structure, shall be deemed to apply.

b. The applicable requirements of the aforesaid Fire Codes shall apply to all buildings and structures located within the municipal limits of Buckhannon which are either initially erected and constructed, or hereafter modified, extended, restored, refurbished, repaired or remodelled upon the date of enactment of these Standards. It is further recommended that owners of buildings and structures erected or constructed prior to the date of enactment of these Standards immediately undertake any and all necessary repairs to achieve full compliance with the Fire Codes' requirements, and particularly to achieve compliance with the State Fire Code as adopted in 1976, or as thereafter amended through the date of enactment of these Standards.

SECTION 625. ADOPTION OF BOCA BUILDING CODE, BOCA EXISTING STRUCTURES CODE, BOCA MECHANICAL CODE, BOCA PLUMBING CODE, THE NATIONAL ELECTRICAL CODE, AND THE COUNCIL OF AMERICAN BUILDING OFFICIALS (CABO) ONE & TWO FAMILY DWELLING CODE:

a. The applicable requirements of the State of West Virginia's Building Code as provided by Chapter 29, Article 3, Section 5(b) et seq. of the West Virginia Code, as presently enacted or as may be hereafter enacted or amended, and the applicable requirements of the Building Officials Code Administration International (BOCA), as presently enacted or as may be hereafter enacted or amended are hereby expressly adopted and enacted by the Council of the City of Buckhannon. In any case where the requirements of any of the

aforesaid Codes differ or vary in any way, the more restrictive requirement as applied to the owner of a building or structure, shall be deemed to apply.

b. The applicable requirements of any of the aforesaid Codes shall apply to all buildings and structures located within the municipal limits of Buckhannon which are either initially erected and constructed, or hereafter modified, extended, restored, refurbished, repaired or remodelled following the date of enactment of these Standards. It is further recommended that owners of buildings and structures erected or constructed prior to the date of enactment of these Standards immediately undertake any and all necessary repairs to achieve full compliance with all of the aforesaid Codes' requirements, and owners shall undertake such repairs and building modifications as are necessary to achieve compliance with the BOCA Existing Structures Code.

c. In addition to the aforesaid Codes, the Council of the City of Buckhannon further hereby expressly adopts and enacts the BOCA Existing Structures Code, the BOCA Mechanical Code, the BOCA Plumbing Code, the National Electrical Code (NEC), and the CABO One & Two Family Dwelling Code, all as are presently written or as may be hereafter amended.

d. Notwithstanding the adoption and enactment by the Council of the City of Buckhannon of the various Codes which are more particularly set forth and described in Paragraphs a. and b. hereof, in no event shall the issuance of any permit by the City of Buckhannon be deemed to constitute any certification, guarantee or warranty by the City that any work carried out pursuant to the specifications required by any of the aforesaid Codes has been completed properly, and the City of Buckhannon shall be absolved from any and all liabilities whatsoever arising as a result of any persons' failure to follow the specifications required by any of the aforesaid Codes, or any liabilities arising as a result of the insufficiency of any of the aforesaid Codes' specifications or requirements when such specifications or requirements are followed.

SECTION 626. SURFACE WATER RUN-OFF:

All buildings and structures erected and constructed within the City of Buckhannon shall be erected and constructed in the following manner:

- a. To facilitate optimum surface water and rain water drainage and run-off;
- b. To minimize displacement of surface water and rain water drainage upon neighboring tracts of land;
- c. To completely eliminate the drainage and depositing of surface water and rain water into the City sanitary sewerage system; and,
- d. To maximize the drainage and depositing of surface water and rain water into the City storm sewerage system.

SECTION 627. PROHIBITED BUILDING USES, STRUCTURES AND ACTIVITIES:

The following building uses, structures and activities shall be prohibited within all Zoning Districts of the municipal limits of the City of Buckhannon with the enactment of these Standards:

- a. Abattoirs and slaughterhouses
- b. Dead animal or offal reduction facilities
- c. Junkyards and automobile salvage yards
- d. Fertilizer manufacturing facilities
- e. Pulp plants and paper manufacturing plants
- f. Billboards, i.e., any sign exceeding permitted dimensions
- g. Flashing signs (as further described in Section 620 of these Standards)
- h. Unfenced or unenclosed swimming pools
- i. Placement of any sign, vending machine or any other structure or device upon the public sidewalks, streets, alleys or rights of way thereof or

other public property, i.e., property titled in the name of a governmental entity, including but not limited to the City of Buckhannon.

- j. Any other noise, odor, dust, hazard creating or nuisance bearing activity, service or process.
- k. Barbed wire fences and electrified fences.
- l. Tractor trailers, mobile homes and any other stationary vehicles when used primarily for storage as opposed to transportation related purposes.
- m. Storage of portable toilets, unless the same are stored in a completely enclosed manner so as not to be visible from any public street or sidewalk.

SECTION 628. GARBAGE, TRASH AND OTHER REFUSE MATERIAL CONTAINMENT AND CONCEALMENT:

Owners of all commercial buildings and structures shall be required to provide adequate facilities for the containment and concealment of all garbage, trash and other refuse materials, including the receptacles and containers thereof, such as but not limited to garbage cans and dumpsters.

The owners of all residential buildings and structures shall be required to provide adequate facilities for the containment of all garbage, trash and other refuse materials, and further shall be required to provide for the placement of such facilities in a manner which is the least unattractive to the lot and surrounding neighborhood, and in any event, garbage, trash and other refuse materials' containers shall not be kept or stored in front yard areas except upon appropriate waste collection days.

SECTION 629. ALCOHOL SALE, DISTRIBUTION AND COMMERCIAL CONSUMPTION UPON THE PREMISES:

Alcohol may be sold for consumption upon the premises within the City of Buckhannon in Zoning Districts C-1 and C-2 only, subject to any and all additional laws and administrative limitations and requirements of the State of West Virginia.

SECTION 630. CONSTRUCTION OF SIDEWALKS AND DRIVEWAYS:

The construction of all sidewalks and driveways shall conform to the requirements of the Ordinances of the City of Buckhannon, as are enacted as of the date of enactment of these Standards or as may thereafter be enacted or amended, and shall further conform to the requirements and shall be carried out with the approval of the City Street Superintendent and Engineer.

SECTION 631. RAZING AND DEMOLITION OF BUILDINGS:

In addition and as a supplement to the City of Buckhannon's Housing Ordinance No. 170, in the event that any building or structure is substantially damaged or completely destroyed by fire or any other calamity or otherwise falls into a state of gross disrepair in the discretion of the City Zoning Officer, to the point where the same is not safely inhabitable or useable, then the owner thereof, following transmittal of a written finding by the Zoning Officer, shall immediately undertake the necessary steps to have such building or structure razed and removed, and in any event, such razing or removal shall be commenced within thirty (30) days from the date of written determination by the City Zoning Officer of such state of unsafe inhabitation or use, and in any event, such razing or removal shall be completed within forty-five (45) days following the date of written finding of unsafe inhabitation or use. Any building or structure's razing or removal shall be conducted following the owner's obtaining of a razing permit from the City Recorder.

SECTION 632. MINIMUM LANDSCAPING REQUIREMENTS:

a. The following minimum landscaping requirements shall be required for all residentially zoned districts:

1. All lots located within residentially zoned districts shall be required to have planted at least one (1) tree or shrub per every 2,000 square feet of lot area.

2. All ground area not covered by buildings, structures or pavement shall be covered with grass, groundcover, trees, shrubs or some other decorative landscape materials.

b. The following minimum landscaping requirements shall be required for all non-residentially zoned districts:

1. Where any non-residentially zoned parcel of property abuts any other non-residentially zoned parcel of property, a three feet (3') wide landscaped buffer strip shall be provided between such parcels. The landscaped buffer strip shall include one (1) tree or shrub per every twenty feet (20') or fraction thereof, as measured lineally.

2. All off-street parking areas shall have a minimum requirement of ten square feet (10') of interior landscaping per each parking space. Such landscaped areas shall consist of either sod, groundcover, shrubs, trees or other landscape materials, excluding pavement. In addition to the landscaping per square footage requirement, there shall be planted one (1) tree or shrub per every five (5) parking spaces. All parking islands shall be a minimum of five feet (5') in width, completely curbed and shall be located so as to divide the groups of parking spaces in such a manner so as to relieve the monotony of large expanses of pavement, as well as to contribute to the orderly circulation of traffic in the parking areas.

SECTION 633. COMPLIANCE WITH CITY HOUSING ORDINANCE NO. 170:

These Standards are to be construed as a supplement to and as a companion of the City of Buckhannon's unfit structure Ordinance No. 170, and vice versa.

SECTION 634. FLOOD PLAIN ORDINANCE:

In addition to all other requirements of these Standards, the placement or construction of any building or structure shall further comply with all requirements set forth in the City of Buckhannon's Flood Plain Ordinance No. 237.

SECTION 635. TEMPORARY PLACEMENT OF CONSTRUCTION FACILITIES AND VEHICLES:

a. Notwithstanding any other provision of these Standards, in any instance when a building permit has been duly issued by the City, the property owner or alternatively, the contractor performing services for the property owner, shall be permitted to place and operate upon the lot whereon any building or construction processes are being carried out, any and all reasonably necessary facilities and vehicles, but on a temporary basis only, when said facilities and vehicles are directly related to the said building and construction processes.

b. Pursuant to this Section 635, the temporary placement of trailers for purposes related to building and construction processes only, and under no circumstances for any temporary occupational or residential purposes, shall be permitted notwithstanding any express prohibition respecting the placement of trailers as otherwise provided by these Standards, however, any such placement of a trailer for temporary building and construction purposes shall be located under the direction and supervision of the Zoning Officer, and any property owner or contractor intending to temporarily place a trailer upon any lot shall first obtain the written approval and consent for such placement from the Zoning

Officer prior to any actual placement. In any event, the duration of temporary placement for any construction facility or vehicle, including but not limited to trailers, shall not exceed one (1) year from the date of initial placement without the express, written consent of the Council for the City of Buckhannon.

ARTICLE VII

NONCONFORMING USES

SECTION 700. WHEN PERMITTED:

Subject to the provisions of this Section and Section 706, the use of any building or land existing at the time of the adoption of this Ordinance may be continued even though such use does not conform with these Standards for the District in which it is located, unless otherwise expressly provided by these Standards.

SECTION 701. UNSAFE STRUCTURE:

Nothing in this Ordinance shall prevent the repair or restoration to a safe condition of any portion of any nonconforming building or structure declared unsafe by any proper authority, subject to Section 703 hereof.

SECTION 702. ALTERATIONS:

A nonconforming building or structure may be altered, improved or reconstructed providing such work does not exceed seventy-five percent (75%) of the fair market value of the building or structure, or provided that the building or structure is changed to a conforming use.

SECTION 703. RESTORATION:

Nothing in this Ordinance shall prevent the reconstruction, repair, rebuilding and continued use of a nonconforming building or structure damaged by fire, collapse, explosion or act of God subsequent to the adoption of these Standards, wherein the expense of such work does not exceed seventy-five percent (75%) of the fair market value of the building or structure as of the date that such damage occurred.

SECTION 704. EXTENSION OF NONCONFORMING USE:

A nonconforming use may be extended as a special exception upon approval following application thereof to the Zoning Board of Appeals, subject to the following:

1. The extension is proposed to become a bona fide portion and an attached part of the principal structure, and further shall not utilize any additional or adjoining land other than that utilized within the original parcel.
2. The extension shall not violate the yard and height requirements of the district in which the nonconforming use is presently located.
3. The extension shall be only for the purpose of expanding that certain nonconforming use which was in existence as of the date of adoption of these Standards.

Extension of a lawful use to any portion of a nonconforming building or structures which existed prior to the adoption date of these Standards shall not be deemed to be an extension of such nonconforming use.

SECTION 705. CHANGE OF NONCONFORMING USE PROHIBITED:

No nonconforming building, structure, or use shall be changed to a different nonconforming use.

SECTION 706. ABANDONMENT:

Any nonconforming use of any building or land which has been abandoned, shall not thereafter be resumed. For purposes of this Section, abandonment shall be construed as follows:

1. When the intent of the owner to discontinue the use is apparent; or
2. When the equipment and furnishings characteristic of the nonconforming use have been removed from the premises, and have not been replaced by similar equipment and furnishings within ninety (90) days; or
3. When any nonconforming use has been discontinued for a period of six (6) months or more; or
4. When it has been replaced by a conforming use.

SECTION 707. UNLAWFUL USE NOT AUTHORIZED:

Nothing in these Standards shall be interpreted as permitting the continuance of any unlawful use of, or the conducting of any unlawful activity within any building, structure, lot or premises in violation of any zoning standards in existence as of the date of adoption of this Ordinance, nor shall these Standards be interpreted to permit any unlawful use of, or the conducting of any unlawful activity within any building, structure, lot or premises in violation of any law of the United States of America, the State of West Virginia, or the City of Buckhannon, as applicable to the same.

SECTION 708. DISTRICT CHANGES:

Whenever the boundaries of a district shall be changed so as to transfer an area from one district to another district of a different classification, the foregoing provisions shall apply to any such nonconforming uses then existing and created therein.

ARTICLE VIII

ADMINISTRATION AND ENFORCEMENT

SECTION 800. ADMINISTRATION:

It shall be the duty of the Zoning Officer, together with the aid of the City Police Department, to enforce these Standards. The Zoning Officer shall receive applications, inspect premises and issue all zoning and occupancy permits. No zoning or occupancy permit shall be issued by said officer except when there has been full compliance with the provisions of this Ordinance. The Zoning Officer shall be appointed by the City Council and shall serve at the exclusive will and pleasure of the Council for such time and for such salary as the Council may direct.

SECTION 801. ZONING, BUILDING, WIRING, RAZING AND/OR OCCUPANCY PERMITS REQUIRED:

1. No building or structure shall be constructed, erected, expanded, enlarged, or otherwise structurally altered until a zoning permit therefor has been issued by the Zoning Officer. All applications for zoning permits shall be in accordance with these Standards, and unless upon written order of the Zoning Board of Appeals, no such zoning permit shall be issued for any building where said construction, erection, expansion, enlargement or alteration for use thereof would be in violation of any of these Standards.

2. Any remodelling or improvement of existing buildings or structures which does not alter the basic structure, create additional lot area coverage, or change the use of the parcel or building, shall be exempt from the zoning permit requirement, provided that the estimated cost of such activities shall

not exceed seventy-five percent (75%) of the fair market value of said buildings or structures.

3. No building or structure shall be either partially or completely razed, removed or torn down until a razing permit has been issued by the Zoning Officer. All applications for razing permits shall be in accordance with these Standards and Section 631 hereof.

4. Application forms for all permits required by this Section, shall be made available by the City Recorder's Office.

5. Matters Accompanying Zoning Permit Applications: There shall be submitted with all applications for zoning permits, one (1) copy of a layout or plot plan drawn to scale showing the dimensions of the lot to be built upon, the exact size and location of the building to be constructed upon the lot, and accessory buildings to be erected, and such other information as may be deemed necessary by the Zoning Officer in determining and providing for the enforcement of these Standards.

6. Posting: In the event that any zoning permit application is approved by the Zoning Officer, then an appropriate sign or placard issued by the City and containing thereon the approval of the Zoning Officer, shall be returned together with the zoning permit to the applicant, following payment of the appropriate fee as determined by the City Council. The aforesaid sign or placard as issued by the City evidencing the approval and issuance of the zoning permit and any other municipally required permits shall be posted by the applicant in a conspicuous place upon the building or construction site prior to the commencement of any construction and shall further remain upon the building or construction site during all construction operations.

SECTION 802. OCCUPANCY PERMIT REQUIRED:

1. Upon completion of any new construction, alteration, remodelling or change of use of any building, mobile home or land as authorized pursuant to a zoning permit, application shall then be made to the Zoning Officer by the owner of the premises for an occupancy permit prior to any actual occupancy of the premises. The occupancy permit or the written refusal to issue the same shall be transmitted by the Zoning Officer to the applicant within ten (10) days following receipt of application for said occupancy permit. The Zoning Officer's refusal to issue any occupancy permit shall set forth the reasons for such denial.

2. Occupancy permits shall be required for the following:

- a. Occupancy of any new building, or upon the placement of any mobile home following the date of enactment of these Standards.
- b. Occupancy and use of a building hereafter moved or altered so as to require a zoning permit.
- c. Change in the use of an existing building other than to a use of the same type.
- d. Occupancy and use of vacant land.
- e. Change in the use of land except to another use of the same type.
- f. Any change in use of a nonconforming use.

3. The issuance of an occupancy permit shall evidence that the building or the proposed use of a building or land complies with these Standards.

4. No essential services shall be furnished by either the City of Buckhannon nor any other utility company unless and until an occupancy permit has been issued by the Zoning Officer.

SECTION 803. PERMITS - MISCELLANEOUS PROVISIONS:

1. It shall be the responsibility of the property owner to make application for, procure, post, and remit all fees required for any permit. Any property owner who fails to comply with these Standards, and particularly the procurement of any required permits, shall be subject to the penalties as prescribed by Article XIII hereof.

2. Notwithstanding the requirements of Paragraph (a) hereof, any contractor who proceeds to construct, erect, install, repair, remodel, alter, expand, enlarge or raze any building or structure within the City of Buckhannon, without having obtained all necessary permits shall be subject to the penalty provisions of these Standards along with the property owner.

3. In the event that any work is found by the Zoning Officer or other administrative officer to have been commenced without all necessary permits therefor having been first obtained, the property owner shall be assessed with a permit fee equivalent to twice that of the scheduled permit fee.

4. In the further event that any work is found by the Zoning Officer or other administrative officer to have been commenced without all necessary permits therefor having been first obtained, then in such instances involving the employment of an independent contractor, such contractor's privileges to engage in work within the City of Buckhannon shall immediately be suspended until all such required permits have been obtained.

SECTION 804. FEES:

1. A schedule establishing all fees to be assessed by the City of Buckhannon for zoning, building, wiring, razing and occupancy permits, along with any and all other fees required by these Standards shall be established by a separate Ordinance enacted by the City Council.

2. All fees prescribed by these Standards shall be due and payable upon application for any permit or variance as the case may be, and in any event shall be nonrefundable.

ARTICLE IX

ZONING BOARD OF APPEALS

SECTION 900. CREATION, APPOINTMENT AND ORGANIZATION:

The Zoning Board of Appeals shall be appointed pursuant to the provisions of Chapter 8, Article 5, Section 2 et seq., of the West Virginia Code, as amended. The Zoning Board of Appeals shall consist of five (5) members who shall be appointed by the City Council. Upon creation of the Board, the members shall serve the following terms: one for a term of one (1) year, two for a term of two (2) years, and two for a term of three (3) years. Thereafter, as their terms expire, each new appointment shall be for a term of three (3) years. Any vacancy shall be filled for the unexpired term only. A Board member may be removed for misconduct or neglect of duty by action of the City Council. The Board shall elect a chairman and vice chairman from its membership, and may prescribe rules for the conduct of its affairs. The duly elected City Recorder shall serve as ex officio secretary of the Board.

SECTION 901. POWERS AND DUTIES:

The Zoning Board of Appeals:

1. Shall hear and determine appeals from, and review any order, finding, requirement, decision or determination made by the Zoning Officer, or any other administrative official or board charged with the enforcement of any ordinance or regulation adopted pursuant to Chapter 8, Article 5, Sections 39 through 49 of the West Virginia Code.

2. May permit and authorize exceptions to the district regulations, only in the classes of cases or in particular situations as specified in this Ordinance, but cannot and shall not authorize any change in the uses for any District, and further cannot and shall not adjust or amend the boundaries of any Zoning District as is provided by these Standards.
3. Shall hear and decide special exceptions to the terms of the Standards upon which the Board is required to act under this Ordinance.
4. May authorize upon appeal in specific cases such variance from the terms of these Standards as will not be contrary to the public interest, where, owing to special conditions, a literal enforcement of the provisions of these Standards would, in the opinion of the Board, result in unnecessary hardship, and so that the spirit of this Ordinance would be observed and substantial justice achieved.

In exercising its powers, the Board may reverse or affirm, in whole or in part, or may modify any order, finding, requirement, decision or determination appealed from.

SECTION 902. PROCEDURE:

The procedure of the Board shall be governed by the provisions of the applicable law of the State of West Virginia, and such rules which are not inconsistent therewith, as the Board may adopt. In general, the procedure for the appeal from any action taken by the Zoning Officer shall be as follows:

1. Any appeal from the requirements of this Ordinance shall be taken by filing a written notice of appeal with the office of the City Recorder, which said notice shall specify the grounds therefor. The Zoning Officer shall forthwith transmit to the Board all documents in his possession having any bearing upon the matter. Any appeal must be made within ninety (90) days following the date of disapproval by the Zoning Officer of any permit application.
2. The appellant shall at the time of filing the appeal pay to the City Treasurer such fee as established by the Council to defray all costs of required advertising and any other clerical expenses.
3. Each appeal shall be tried on its merits at a public hearing. Notice of such appeal shall be given by publication of a Class II legal advertisement in a newspaper of general circulation in the City and in accordance with applicable law. The Zoning Board shall give any additional notice as required by law to parties determined by the Board to have an interest in the Board's determination, and the Board may adjourn any hearing for the purpose of furnishing such further notice as may be deemed by the Board to be reasonable or necessary.
4. The City Zoning Officer shall furnish to the Board all pertinent narrative material, maps, charts, and other data relative to the matter. The Zoning Board may adjourn any hearing for the purpose of reviewing such data as may be pertinent to the matter, and to request interpretations of said data by the City Attorney or the City Planning Commission.
5. The Board shall decide each appeal within a reasonable time, and notice thereof shall be given to all interested parties. The written decision of the Board shall be promptly filed with the City Recorder, and in the event that a variance is granted, it shall be entered upon the minutes of the City Council so as to be of public record. In the exercise of its functions upon such

appeals or upon such exceptions, the Board may in conformity with law, reverse or affirm, in whole or in part, or modify any order, requirement, decision, or determination.

6. Any person aggrieved by any decision of the Board may appeal therefrom, within thirty (30) days to the Circuit Court of Upshur County as provided by the laws of the State of West Virginia.

ARTICLE X

AMENDMENTS

SECTION 1000: AMENDMENTS:

1. The City Council may, from time to time, amend, supplement, modify or change, by Ordinance, the boundaries of districts established on the Zoning Districts Map, and all regulations, standards and other provisions as set forth in this Zoning Ordinance. Any proposed amendment or supplement may be initiated upon petition of any interested party, by the Council upon its own motion, or by motion of the Planning Commission. Any proposed amendment or supplement not initiated by the Planning Commission, shall first be submitted in writing to the Planning Commission for its recommendation and report, and the Planning Commission shall submit its recommendations by written report to the Council upon all changes initiated by motion of the Planning Commission.

2. The Planning Commission, before submitting its recommendations and report to the Council, shall hold a public hearing on the proposed amendment, supplement or change. The Commission shall give at least fifteen (15) days notice in advance of such public hearing by publication in a newspaper of general circulation in the City as a Class II legal advertisement which shall set forth the date, time and place of such hearing. Additionally, the Commission may mail notices of such hearing to any property owner who the Commission deems to be affected by such amendment, supplement or change, and in accordance with such rules of procedure as it may establish.

3. In the event that any proposed amendment or change is referred by the City Council to the Planning Commission, and the Planning Commission shall fail to submit its recommendation and report to the Council within sixty (60) days, then the Council may proceed to amend, supplement, modify or change, by ordinance, without any recommendation from the Commission, the boundaries of districts established on the Zoning Districts Map or the regulations and standards or other provisions as set forth in this Zoning Ordinance, provided, however, that the Council shall give at least fifteen (15) days notice by publication in a newspaper of general circulation in the City.

4. Any person, corporation or firm desiring a change, amendment or supplement to the boundaries of districts established on the Zoning Districts Map, or the regulations, standards or other provisions as set forth in this Zoning Ordinance, shall submit such proposal in writing to the City Recorder who shall present such request to the Council at the next regularly scheduled meeting of the Council. The City Council shall then promptly forward the proposal to the Planning Commission. Any party proposing or recommending any change or supplement or amendment, other than the Planning Commission or the Council, shall pay a nonrefundable fee as established by separate Ordinance adopted by the Council which shall be applied toward the costs of the amendment procedure.

5. In order for any proposed amendment to be enacted by the Council which has been disapproved in writing by the Planning Commission, it shall be necessary for such proposed amendment to be approved by the affirmative vote of the majority of the duly seated members of the City Council, i.e., four (4) of the seven (7) Council members must vote for the enactment of the proposed amendment.

SECTION 1001: FAILURE TO GIVE NOTICE:

Notwithstanding any failure to give any notice as provided by this Article X, the subsequent enactment of any amendment shall not invalidate any Ordinance, provided that such failure was inadvertent.

ARTICLE XI

SEPARABILITY CLAUSE

SECTION 1100. In the event that any section(s) or provision(s) of this Ordinance is determined to be unconstitutional or invalid 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 unconstitutional or invalid other than that section(s) or provision(s) which are specifically determined to be unconstitutional or invalid.

ARTICLE XII

REMEDIES

SECTION 1200. In the event that any building, structure or accessory structure is erected, constructed, reconstructed, altered, repaired, converted, or maintained, or in the event that any building, structure, accessory structure or land is used in violation of this Ordinance or any regulations made pursuant thereto, in addition to other remedies as may be provided by law, any appropriate action or proceeding, injunctively or otherwise, may be instituted or taken by the City or by any resident of the City of Buckhannon or by any non-resident owner of real estate situated within the City to prevent such unlawful erection, construction, reconstruction, alteration, repair, conversion, maintenance, or use and to restrain, correct or abate such violation, to prevent the occupancy of said building, structure or land or to prevent any illegal act, conduct, business or use within or about such premises.

ARTICLE XIII

PENALTIES AND CITATION PROCEDURES

SECTION 1300. CRIMINAL PENALTIES:

Any property owner, tenant or lessee, contractor, mobile home transporter, or any other person, business entity or corporation who violates, disobeys, omits or refuses to comply in whole or in part with, resists enforcement of, or who assists in any way in violating any of the provisions of this Zoning Ordinance, shall be guilty of a misdemeanor and, upon conviction thereof, shall be fined not less than Ten Dollars (\$10.00) nor more than Five Hundred Dollars (\$500.00), for each such offense, and in the discretion of a Court exercising proper jurisdiction, i.e., the Municipal Court of the City of Buckhannon or the Circuit Court of Upshur County, West Virginia, may further be imprisoned for a period not exceeding thirty (30) days, or may be both fined and imprisoned for each offense. Each calendar day's continuance of any such violation of these Standards shall be considered as a separate offense.

SECTION 1301. CITATION PROCEDURES:

(a) For purposes of commencing any criminal action as provided by Section 1300 hereof, any person, including but not limited to the Zoning Officer or any City police officer, upon observing any violation of these Standards or any violation of any unfit structure ordinance of the City of Buckhannon, may execute a written complaint and file the same with the Judge of the Municipal

Court of the City of Buckhannon, and said Court shall then issue the appropriate warrant for the arrest of any such violator, and the warrant shall then be forthwith served by a City police officer upon said violator who shall be brought immediately before said Court.

(b) Nothing herein shall be construed to in any way limit the Zoning Officer from issuing any appropriate warning citation to any violator of these Standards, which said warning citation shall provide the violator with such amount of time as deemed reasonable and sufficient in the exclusive discretion of the Zoning Officer for the violator to correct or remedy any such violation. Upon the expiration of the time as provided for by the Zoning Officer in such warning citation, the Zoning Officer may proceed to file the complaint referred to in Section 1301(a) hereof, with the Municipal Court. Nothing herein shall be deemed to require the issuance of any warning permit prior to proceeding pursuant to Sections 1300 or 1301(a) hereof.

ARTICLE XIV

EFFECTIVE DATE OF ORDINANCE

SECTION 1400. These Standards shall be fully effectuated on January 1, 1989, which date is more than thirty (30) days following the date of the third (3rd) reading and passage thereof by the Council of the City of Buckhannon.

- a. FIRST READING: November 3, 1988
- b. SECOND READING: November 17, 1988
- c. THIRD READING, PASSAGE AND ADOPTION: December 1, 1988

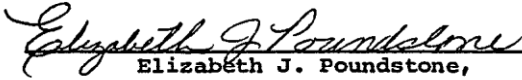
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CERTIFICATE OF ENACTMENT.

I, Elizabeth J. Poundstone, City Recorder, do hereby certify that the foregoing Ordinance No. 244 was lawfully ordained and enacted by the Council of the City of Buckhannon at a regular session assembled on December 1, 1988.


Elizabeth J. Poundstone,
City Recorder

1GG/1

ORDINANCE NO. 245 OF THE CITY OF BUCKHANNON, AN
ORDINANCE ESTABLISHING A CONSOLIDATED SCHEDULE OF
FEES TO BE ASSESSED BY THE CITY FOR VARIOUS
ZONING, BUILDING, WIRING, RAZING, OCCUPANCY AND MOBILE
HOME PLACEMENT APPLICATIONS, INSPECTIONS AND PERMITS

WHEREAS, the City of Buckhannon has previously adopted various Ordinances relevant to comprehensive building, planning and zoning which under certain circumstances require property owners to make formal, written application and/or to obtain reasonable and necessary permits from the City prior to commencing building and construction upon land or prior to implementing certain uses of land situated within the City of Buckhannon; and,

WHEREAS, the City of Buckhannon is permitted by law to offset its various administrative costs and expenses incurred in processing permit applications in making inspections and in issuing permits by charging fees for the same; and,

WHEREAS, the fees previously required by the City of Buckhannon for processing permit applications, for making inspections and issuing the various permits to which reference has hereinbefore been made, are presently set forth in several different Ordinances of the City of Buckhannon; and,

WHEREAS, various fees previously established by the City for applications, inspections and permit issuance are now insufficient to substantially offset the City's costs and expenses in processing the same; and,

WHEREAS, the Council of the City of Buckhannon now deems it reasonable and necessary to establish a schedule consolidating the fees charged for zoning, building, wiring, razing, occupancy and mobile home placement applications, inspections and permits, and further to establish fee amounts in a sum reasonably intended to pay for the City's cost and expense incurred in processing such permit applications and permits, and in performing such inspections.

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

ARTICLE 1: COUNCIL'S FINDINGS OF FACT

SECTION 1: The fees presently charged by the City of Buckhannon for processing applications for zoning, building, wiring, razing, occupancy, mobile home placement and other permits relevant to comprehensive building, planning and zoning are insufficient to pay for and offset the reasonable and necessary administrative costs and expenses incurred by the City in processing permit applications, performing inspections and in issuing permits.

SECTION 2: The fees presently charged by the City of Buckhannon for making permit application, performing inspections and issuing permits are not consolidated in one (1) fee schedule, but rather are contained and set forth in several Ordinances of the City of Buckhannon.

SECTION 3: The City of Buckhannon Planning Commission has formally resolved and recommended to the Council that the City adopt a consolidated schedule establishing the various fees to be charged by the City of Buckhannon for the application and issuance of the aforesaid permits, and for performing inspections.

SECTION 4: It is reasonable and necessary for the Council of the City of Buckhannon to increase the fees which were previously charged, or in any case where a fee was not previously charged, to establish fees to now be charged for the application and issuance of various permits and the performing of inspections relevant to zoning, building and construction processes occurring within the City of Buckhannon, and further to consolidate the various fees charged for the application and issuance of such permits, and performance of inspections into one (1) Schedule and Ordinance.

ARTICLE 2: APPLICATION, INSPECTION AND PERMIT FEES:

SECTION 1 - APPLICATION FOR PLAN EXAMINATION AND

BUILDING PERMIT: Any property owner submitting an application for plan examination and building permit shall be required to remit to the City Treasurer an amount of Ten Dollars (\$10.00), which amount shall be credited against any and all other fees required for permits issued by the City.

SECTION 2 - BUILDING PERMITS:

(A) Minimum Fee. The minimum building permit fee shall be Ten Dollars (\$10.00), regardless as to the dollar value of materials and labor expended for the construction and further regardless as to the square footage area affected by the building or construction, except that any repair or replacement involving an expenditure of less than Two Hundred Fifty Dollars (\$250.00) worth of combined materials and labor not involving any electrical wiring or change to any structural beam or bearing support or the removal or change of any means of egress, or replacement or relocation of any work which affects the public health or general safety shall not require the formal submittal of an application nor the issuance of a permit nor the payment of any building permit fee.

(B) New Construction. Any property owner engaging in new construction shall be required to pay a sum equal to two-tenths (0.2) of one percent (1%) of the value of the improvement or new construction, and which said value shall be determined following an ascertainment of (1) the type of construction and (2) the use group, both of which are more particularly contained and set forth upon that certain chart captioned in part "BOCA [Building Officials & Code Administrators International, Inc.] Building Costs -- May/June 1988 Cost per Square Foot", set forth below. The various types of construction and use groups

are more particularly defined and set forth in the BOCA National Building Code.

BOCA Building Costs -- May/June 1988 Cost per Square Foot

Use Group	<u>Construction Type</u>				
	1	2	3	4	5
A-lws	\$84	\$79	\$72	\$73	\$65
A-lw/os	\$76	\$70	\$62	\$66	\$56
A-2	\$65	\$60	\$54	\$55	\$47
A-3	\$64	\$60	\$53	\$55	\$45
A-4	\$80	\$74	\$67	\$68	\$58
B	\$63	\$58	\$53	\$58	\$47
E	\$64	\$59	\$54	\$59	\$48
F-1	\$38	\$33	\$28	\$28	\$26
F-2	\$38	\$33	\$28	\$28	\$26
H	\$35	\$31	\$25	\$25	\$20
I-1	\$56	\$52	\$47	\$49	\$41
I-2	\$85	\$80	\$74	\$79	\$69
I-3	\$65	\$60	\$54	\$59	\$49
M	\$51	\$46	\$40	\$42	\$33
R-1	\$62	\$58	\$52	\$56	\$45
R-2	\$54	\$50	\$43	\$47	\$36
R-3	\$45	\$43	\$40	\$53	\$35
S-1	\$35	\$31	\$25	\$25	\$20
S-2	\$35	\$31	\$25	\$25	\$15

(C) Rehabilitation. Any person engaging in the restoration or rehabilitation of any existing building or structure shall be required to pay one-third (1/3) of the new construction rate as hereinabove set forth pursuant to Subsection (B) for the issuance of a building permit.

(D) Repair & Replacement. Any person engaging in the repair or replacement of any part or portion of any building or structure shall be required to pay the sum of two-tenths (0.2) of one percent (1%) of value of the repair or replacement for the issuance of a building permit, with the repair or replacement value to be determined by the Zoning Officer based upon information obtained from the applicant and further based upon the type and extent of the repair or replacement.

(E) Reroofing. Any person engaging in the replacement of a roof of any building, regardless as to the relevant surface area, shall be required to pay a fee of Ten Dollars (\$10.00) for the issuance of the necessary building permit.

(F) Placement of a Mobile Home. Any person engaging in the placement of a mobile home upon property situate in the City of Buckhannon shall be required to pay a fee of Forty Dollars (\$40.00) for the issuance of the necessary permit.

(G) Temporary Placement of Trailer for Building and Construction Purposes. Any person engaging in the temporary placement of a trailer upon land situate in the City of Buckhannon for building and construction purposes, shall be required to pay a fee of Twenty Dollars (\$20.00) for the issuance of the necessary permit.

(H) Wrecking or Razing. Any person engaging in the wrecking or razing of any building or structure containing two hundred fifty (250) square feet or more shall be required to pay a fee of Twenty Dollars (\$20.00) for the issuance of the necessary permit.

(I) Placement of Signs. Any person engaging in the placement of any sign upon property situate in the City of Buckhannon shall be required to pay a fee of Fifteen Dollars (\$15.00) for the issuance of the necessary permit.

(J) Curb or Sidewalk Cut. Any person engaging in the cutting of any curb or sidewalk shall be required to pay a fee of Fifteen Dollars (\$15.00) for the issuance of the necessary permit.

SECTION 3 - ELECTRICAL PERMITS: Any property owner submitting an application for electrical permits for less than forty (40) outlets and circuits shall be required to remit to the City Treasurer an amount of Fifteen Dollars (\$15.00). Any property owner submitting an application for electrical permits for more than forty (40) but less than eighty (80) outlets and circuits shall be required to remit to the City Treasurer an amount of Twenty-Five Dollars (\$25.00). Any property owner submitting an application for electrical permits for more than

eighty (80) outlets and circuits shall be required to remit to the City Treasurer an amount of Twenty-Five Dollars (\$25.00) plus Twenty Cents (\$0.20) per each additional outlet or circuit in excess of eighty (80) outlets.

SECTION 4 - ZONING PERMIT: Any property owner submitting an application for a zoning permit shall be required to remit to the City Treasurer an amount of Twenty Dollars (\$20.00) for the issuance of said permit.

SECTION 5 - ZONING APPEAL OF A DENIED APPLICATION: Any property owner submitting an application for a zoning appeal of an application denied by the Zoning Officer shall be required to remit to the City Treasurer an amount of Thirty Dollars (\$30.00).

SECTION 6 - REQUEST FOR ZONING DISTRICT CHANGE: Any property owner submitting an application for a request for a zoning district change shall be required to remit to the City Treasurer an amount of Seventy-Five Dollars (\$75.00).

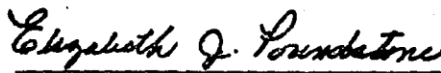
ARTICLE 3: EFFECTIVE DATE

This Ordinance shall be effective on January 1, 1989, which date is more than thirty (30) days following the date of the third (3rd) reading, adoption and passage thereof by the Council of the City of Buckhannon.

FIRST READING:	November 3, 1988
SECOND READING:	November 17, 1988
THIRD READING AND ADOPTION:	December 1, 1988

CERTIFICATE OF ENACTMENT

I, Elizabeth J. Poundstone, City Recorder, do hereby certify that the foregoing Ordinance No. 245 was lawfully ordained and enacted by the Council of the City of Buckhannon at a regular session assembled on December 1, 1988.


Elizabeth J. Poundstone,
City Recorder

ORDINANCE NO. 252 OF THE CITY OF BUCKHANNON, AN ORDINANCE AMENDING ZONING ORDINANCE NO. 244 OF THE CITY OF BUCKHANNON, TO REZONE A TRACT OF LAND LOCATED IN THE NORTH BUCKHANNON AREA OF THE CITY, CONTAINING APPROXIMATELY 1.0 ACRE, AND WHICH TRACT OF LAND BORDERS FIFTH STREET ON THE EAST, THE FOURTH STREET RIGHT OF WAY ON THE WEST, THE HARRISON AVENUE RIGHT OF WAY (B&O RAILROAD RIGHT OF WAY) ON THE NORTH, AND A PAPER ALLEY EXTENDING BETWEEN AND PERPENDICULAR WITH FIFTH STREET AND THE FOURTH STREET RIGHT OF WAY ON THE SOUTH, WITH THE REZONING TO RESULT IN A CHANGE OF ZONING DISTRICT FROM "R-2", GENERAL RESIDENTIAL DISTRICT "A", TO "I", INDUSTRIAL DISTRICT

WHEREAS, pursuant to the provisions of Ordinance No. 244 of the City of Buckhannon, a tract of real estate containing approximately 1.0 acre, which borders Fifth Street on the east, the Fourth Street right of way on the west, the Harrison Avenue right of way, being the B&O Railroad right of way, on the north, and a paper alley extending between and perpendicular with Fifth Street and the Fourth Street right of way on the south, which said tract of land is shown upon a map which is attached hereto and further which is presently owned by Craig G. Phillips, is presently included and classified in the "R-2", General Residential District "A" of the City of Buckhannon; and,

WHEREAS, the owner of the subject tract of land has duly petitioned the Planning Commission of the City of Buckhannon to rezone the subject real estate to "I", Industrial District; and,

WHEREAS, pursuant to a properly published public notice, a public meeting of the Planning Commission of the City of Buckhannon was held on June 26, 1990, to consider the request for the rezoning of the hereinabove described real estate and to afford all interested parties the opportunity to make comment upon the request for the rezoning of said real estate; and,

WHEREAS, as a result of the aforesaid meeting, the said Planning Commission and the City Zoning Officer were of the opinion that the rezoning of the subject real estate from "R-2" to "I" would be a proper rezoning, and further as a result of the formal

meeting of the Planning Commission, the members thereof resolved to submit a written report to the Council of the City of Buckhannon recommending that the Council approve and adopt the rezoning as requested by the property owner; and,

WHEREAS, a written report from the Planning Commission dated June 27, 1990, was tendered to the City Council at a regular meeting of the Council convened on July 5, 1990, which report was incorporated and made a part of the minutes of the said Council meeting, and further which said report set forth the Planning Commission's recommendation for the rezoning of the subject tract of land; and,

WHEREAS, the Council of the City of Buckhannon now deems it to be appropriate and reasonable to adopt the Planning Commission's recommendation, and to formally rezone the subject tract of land from "R-2", General Residential District, to "I", Industrial District.

NOW, THEREFORE, BE IT ORDAINED AND ENACTED BY THE COUNCIL OF THE CITY OF BUCKHANNON, That the Council of the City of Buckhannon does hereby adopt the recommendation of the Planning Commission, and does further hereby amend and change the zoning classification respecting that certain tract of land containing approximately 1.0 acre, the location of which has been more particularly hereinabove described, with said land to be rezoned from "R-2", General Residential District, to "I", Industrial District, all upon the expiration of thirty (30) days following the final reading, passage and adoption of this Ordinance.

It is further ordained that the City of Buckhannon Zoning Ordinance No. 244 be amended and changed insofar and insofar only, as is herein provided to evidence the change in zoning district respecting the subject tract of land.

FIRST READING: July 19, 1990

SECOND READING: August 2, 1990

THIRD READING, PASSAGE AND ADOPTION: August 16, 1990

Anthony A. Gum, Mayor

CERTIFICATE OF ENACTMENT

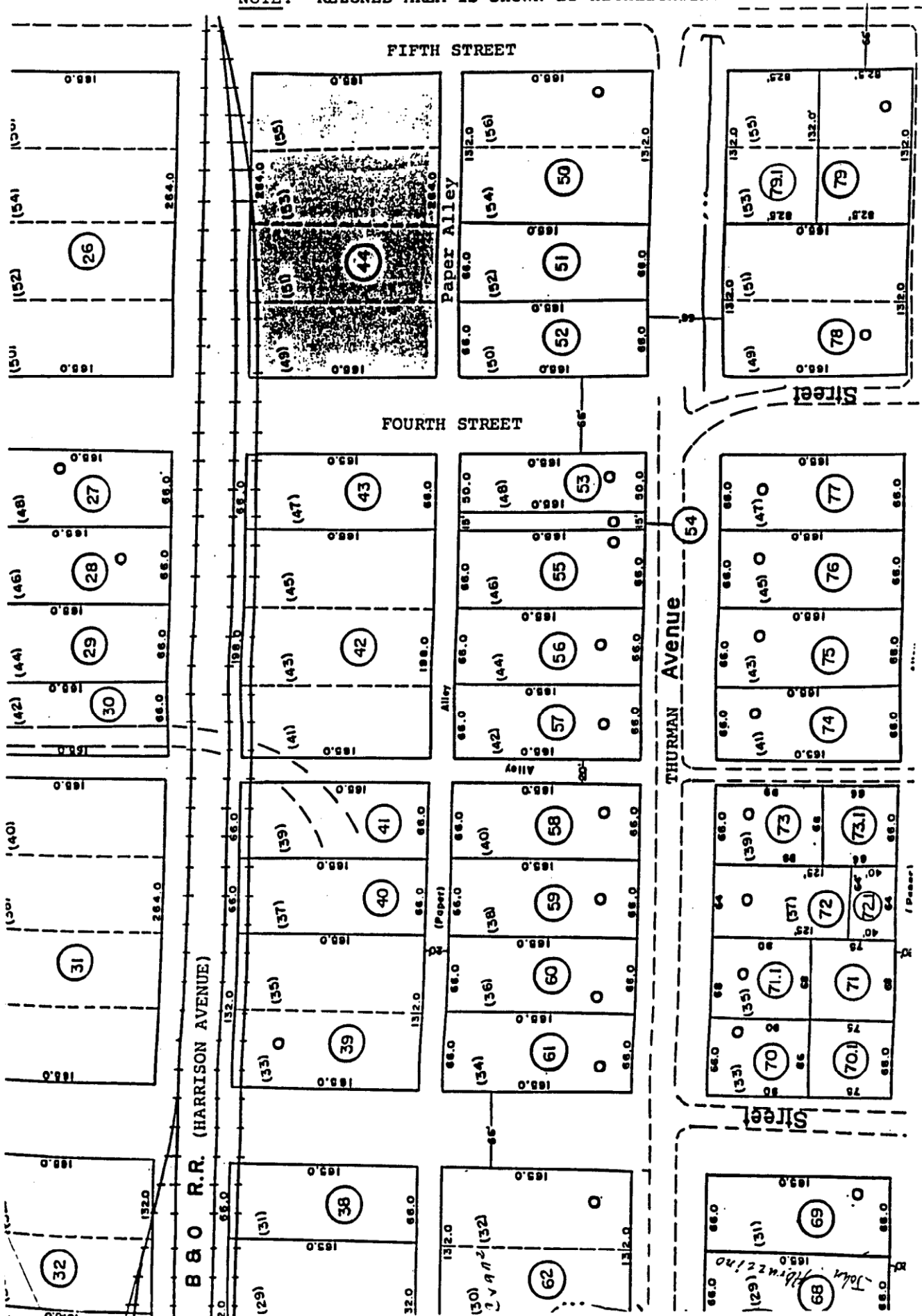
I, Nancy Shobe, Recorder of the City of Buckhannon, do hereby certify that the foregoing Ordinance No. 252 was lawfully ordained and enacted by the Council of the City of Buckhannon at a regular session of the said Council assembled on August 16, 1990.

Nancy Shobe, City Recorder

DM1/1

CITY OF BUCKHANNON ORDINANCE NO. 252

NOTE: REZONED AREA IS SHOWN BY HIGHLIGHTING



ORDINANCE NO. 265 OF THE CITY OF BUCKHANNON, AN
ORDINANCE AMENDING ZONING ORDINANCE NO. 244 OF THE CITY
OF BUCKHANNON, TO REZONE VARIOUS TRACTS OF LAND, ALL
GENERALLY LOCATED ON THE EASTERN SIDE OF NORTH LOCUST
STREET, ALSO BEING WEST VIRGINIA STATE ROUTE NO. 20/4,
IN THE CITY OF BUCKHANNON, WITH THE REZONING TO RESULT
IN A CHANGE OF ZONING DISTRICT FROM C-1 DOWNTOWN
COMMERCIAL DISTRICT, TO C-2, HIGHWAY COMMERCIAL
DISTRICT.

WHEREAS, pursuant to the provisions of Ordinance No. 244 of
the City of Buckhannon, various tracts of land, all generally
located on the eastern side of North Locust Street, also being West
Virginia State Route No. 20/4, in the City of Buckhannon, and
further located between the northern edge of the first public alley
which is located to the immediate north of, and generally parallel
with East Main Street, and proceeding to the southern line of
Morton Avenue, were initially, and continue to be included,
classified and zoned in the C-1, Downtown Commercial District of
the City of Buckhannon; and,

WHEREAS, the owners of virtually all of the subject tracts of
land, together with the owners of various neighboring tracts of
land, have duly petitioned the Planning Commission of the City of
Buckhannon to rezone the subject real estate to C-2, Highway
Commercial District; and,

WHEREAS, pursuant to a properly published public notice, a
public meeting of the Planning Commission of the City of Buckhannon
was held on April 20, 1993, to consider the request for the
rezoning of the hereinabove described real estate and to afford all
interested parties the opportunity to make comment upon the request
for the rezoning of said real estate; and,

WHEREAS, as a result of the aforesaid meeting, the said
Planning Commission and the City Zoning Officer were of the opinion
that the rezoning of all of the subject real estate from C-1 to C-2
would be a proper rezoning, and further as a result of the formal
meeting of the Planning Commission, the members thereof resolved to
submit a written report to the Council of the City of Buckhannon

recommending that the Council approve and adopt the rezoning as requested by the property owners; and,

WHEREAS, a written report from the Planning Commission dated May 13, 1993, was tendered to the City Council at a regular meeting of the Council convened on May 20, 1993, which report was incorporated and made a part of the minutes of the said Council meeting, and further which said report set forth the Planning Commission's recommendation for the rezoning of the subject tracts of land; and,

WHEREAS, the Council of the City of Buckhannon now deems it to be appropriate and reasonable to adopt the Planning Commission's recommendation, and to formally rezone the subject tracts of land from C-1, Downtown Commercial District, to C-2, Highway Commercial District.

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

(1) That the Council of the City of Buckhannon does hereby adopt the recommendation of the Planning Commission, and does further hereby amend and change the zoning classification respecting all of those certain tracts of land, all generally located on the eastern side of North Locust Street, also being West Virginia State Route No. 20/4, in the City of Buckhannon, and further located between the northern edge of the first public alley which is located to the immediate north of, and generally parallel with East Main Street, and proceeding to the southern line of Morton Avenue, said Morton Avenue also currently being the northernmost border of the corporate limits of the City of Buckhannon, with all of said land to be rezoned from C-1, Downtown Commercial District, to C-2, Highway Commercial District.

(2) That all of the real estate affected by this rezoning is more particularly shown and set forth upon that certain map which is attached hereto and is expressly made a part hereof, and which

said map is captioned, "CITY OF BUCKHANNON ORDINANCE NO. 265 - REZONING ALL REAL ESTATE LOCATED ON THE EASTERN SIDE OF NORTH LOCUST STREET BEGINNING AT THE NORTHERN EDGE OF THE FIRST PUBLIC ALLEY WHICH IS LOCATED TO THE IMMEDIATE NORTH OF, AND GENERALLY PARALLEL WITH EAST MAIN STREET, AND PROCEEDING TO THE SOUTHERN LINE OF MORTON AVENUE".

(3) That the depth of the hereby rezoned real estate shall be for the maximum two hundred forty (240) feet lot depth or until abutment with any City street or alley, whichever distance is less, all as is required pursuant to Section 507.C.(9) of Ordinance No. 244 of the City of Buckhannon.

(4) That it is further ordained that the City of Buckhannon Zoning Ordinance No. 244 be amended and changed insofar and insofar only, as is herein provided to evidence the change in zoning district respecting the subject tracts of land, from C-1, Downtown Commercial District, to C-2, Highway Commercial District.

(5) That 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.

FIRST READING:	May 20, 1993
SECOND READING:	June 3, 1993
THIRD READING, PASSAGE AND ADOPTION:	June 17, 1993

Anthony A. Gum, Mayor

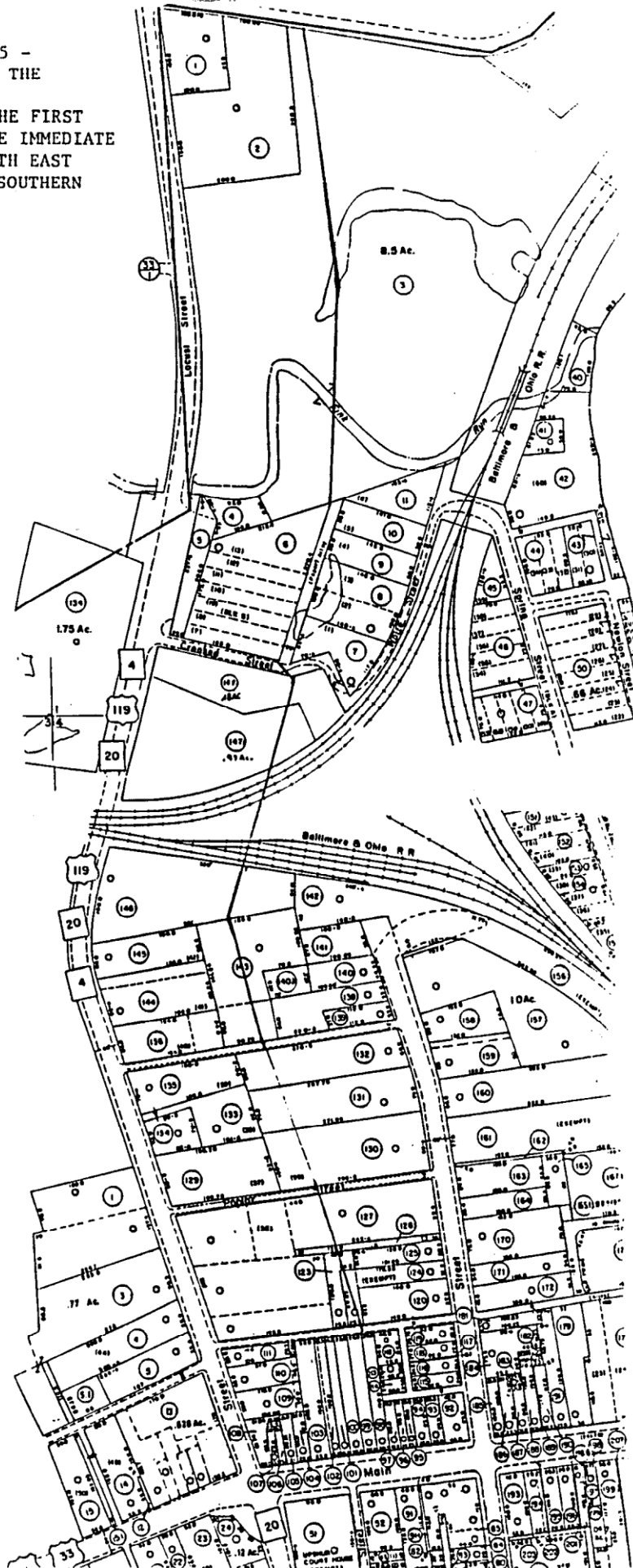
CERTIFICATE OF ENACTMENT

I, Nancy C. Shobe, Recorder of the City of Buckhannon, do hereby certify that the foregoing Ordinance No. 265 was lawfully ordained and enacted by the Council of the City of Buckhannon at a regular session of the said Council assembled on June 17, 1993.

Nancy C. Shobe, City Recorder

CITY OF BUCKHANNON ORDINANCE NO. 265 -
 REZONING ALL REAL ESTATE LOCATED ON THE
 EASTERN SIDE OF NORTH LOCUST STREET
 BEGINNING AT THE NORTHERN EDGE OF THE FIRST
 PUBLIC ALLEY WHICH IS LOCATED TO THE IMMEDIATE
 NORTH OF, AND GENERALLY PARALLEL WITH EAST
 MAIN STREET, AND PROCEEDING TO THE SOUTHERN
 LINE OF MORTON AVENUE

C-2 = highlighted area



ORDINANCE NO. 271 OF THE CITY OF BUCKHANNON, AN
ORDINANCE AMENDING ZONING ORDINANCE NO. 244 OF THE CITY OF
BUCKHANNON, SPECIFICALLY REZONING VARIOUS TRACTS OF LAND, ALL
GENERALLY SITUATED ON THE WESTERN SIDE OF NORTH LOCUST STREET, ALSO
BEING WEST VIRGINIA STATE ROUTE NO. 20/4, AND FURTHER SITUATED
TO THE IMMEDIATE NORTH OF THE CSX RAILROAD TRACKS, AND TO THE
IMMEDIATE SOUTH OF U.S. HIGHWAY ROUTE NO. 33, IN THE CITY OF
BUCKHANNON, WITH THE REZONING TO RESULT IN A CHANGE OF
ZONING DISTRICTS IN THE SUBJECT AREA TO C-2, HIGHWAY COMMERCIAL
DISTRICT AND/OR I, INDUSTRIAL DISTRICT; ADDING RESTAURANTS, CAFES,
ICE CREAM PARLORS, HOTELS AND MOTELS AS PERMITTED USES IN
INDUSTRIAL ZONES WITHIN THE CITY OF BUCKHANNON; AND MODIFYING
SECTION 509.A. AND SECTION 627.j. OF ORDINANCE NO. 244 BY ADDING
REFERENCE TO STATE OR FEDERAL REGULATIONS

WHEREAS, pursuant to the provisions of Ordinance No. 244 of
the City of Buckhannon, various tracts of land, all generally
situated on the western side of North Locust Street, also being
West Virginia State Route No. 20/4, and further situated to the
immediate north of the CSX Railroad tracks, in the City of
Buckhannon, were initially, and continue to be included, classified
and zoned as P-Permanent Preserve District; and,

WHEREAS, further pursuant to the provisions of Ordinance
No. 244 of the City of Buckhannon, and specifically pursuant to
Section 615 thereof, real estate which is annexed in to the City of
Buckhannon following the January 1, 1989, adoption of Ordinance
No. 244, is required to be classified as R-1, Single Family
Residence District until such annexed real estate may be otherwise
zoned; and,

WHEREAS, pursuant to the Order of the Upshur County Commission
entered on June 17, 1993, various tracts of land aggregating
approximately 32.41 acres, were annexed into the corporate limits
of the City of Buckhannon, and which annexed area is generally
situated contiguous to the hereinabove referenced real estate which
is presently classified and zoned as P-Permanent Preserve District,
and further to the immediate south of U.S. Highway Route No. 33;
and,

WHEREAS, various owners and/or prospective purchasers of
tracts of land which are situated in either (a) the above
referenced area which is presently classified and zoned as
P-Permanent Preserve District, or (b) the above referenced, annexed

area, have duly petitioned and/or otherwise requested or appeared before the Council and/or the Planning Commission of the City of Buckhannon to rezone the subject real estate in a manner whereby all of the foregoing real estate would be rezoned in a manner which would enhance commercial development of the same; and,

WHEREAS, pursuant to a properly published public notice, a public meeting of the Planning Commission of the City of Buckhannon was held on August 2, 1994, to consider the rezoning of the hereinabove referenced real estate, to consider other amendments to Ordinance No. 244 of the City of Buckhannon, and to afford all interested parties the opportunity to make comment upon (a) the proposed rezoning of said real estate and (b) the proposed amendments to Ordinance No. 244; and,

WHEREAS, as a result of the aforesaid meeting, the said Planning Commission and the City Zoning Officer were of the opinion that the rezoning of a part or portion of the subject real estate to C-2, Highway Commercial District, and the remaining part or portion of the subject real estate to I, Industrial District, would be a reasonable and appropriate rezoning of the subject real estate; and,

WHEREAS, further as a result of the formal meeting of the Planning Commission, the members thereof resolved to submit a written report to the Council of the City of Buckhannon recommending that the Council approve and adopt (a) the rezoning proposal respecting the subject area and (b) the other proposed amendments to Ordinance No. 244; and,

WHEREAS, a written report from the Planning Commission dated August 3, 1994, has now been tendered to the City Council, which report fully sets forth the Planning Commission's recommendations for the rezoning of the subject area and the other proposed amendments to Ordinance No. 244; and,

WHEREAS, the Council of the City of Buckhannon now deems it to be reasonable and appropriate to adopt all of the Planning

Commission's recommendations as are set forth in the Commission's written report dated August 3, 1994.

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

(1) That the Council of the City of Buckhannon does hereby adopt all of the recommendations of the Planning Commission as are set forth in the written report of the Commission dated August 3, 1994, and in so doing does specifically hereby amend and change the zoning classification respecting all of those certain tracts of land which are generally situated on the western side of North Locust Street, also being West Virginia State Route No. 20/4, and further situated to the immediate north of the CSX Railroad tracks, and to the immediate south of U.S. Highway Route No. 33, in the City of Buckhannon, whereby all of the easternmost 240' portion of said rezoned area which abuts the westernmost line of North Locust Street shall be rezoned to C-2, Highway Commercial District, and the entire residuary portion of said rezoned area shall be rezoned to I, Industrial District.

(2) That all of the real estate affected by this rezoning is more particularly shown and set forth upon that certain map which is attached hereto and which is expressly made a part hereof, and which said map is captioned, "CITY OF BUCKHANNON ORDINANCE NO. 271 - REZONING ALL REAL ESTATE SITUATED ON THE WESTERN SIDE OF NORTH LOCUST STREET, ALSO BEING WEST VIRGINIA STATE ROUTE NO. 20/4, AND FURTHER SITUATED TO THE IMMEDIATE NORTH OF THE CSX RAILROAD TRACKS, AND TO THE IMMEDIATE SOUTH OF U.S. HIGHWAY ROUTE NO. 33, i.e., CORRIDOR 'H'".

(3) That Ordinance No. 244 of the City of Buckhannon shall be further amended, as follows:

(a) that with respect to Section 509.A., and in order to expressly permit the establishment of restaurants, ice cream parlors, cafes, motels and hotels within the City's Industrial Zone, that subsection 15. be established as follows, "15. Restaurants, ice cream parlors, cafes, motels and hotels."; and,

(b) that with respect to the prefatory paragraph introducing Section 509.A., that the language be amended to appear as follows, "THE FOLLOWING USES AND BUILDINGS SHALL BE PERMITTED IN I, INDUSTRIAL DISTRICT, PROVIDED that any of such permitted uses, including any manufacturing, compounding, processing, packing or treatment, shall not produce or emit in excess of state or federal regulations, dust, smoke, refuse matter, toxic or noxious odors, gases and fumes, noise or vibrations, or any similar substances or conditions infringing upon the public safety or deemed to create a public hazard."; and,

(c) that with respect to Section 509.A.14.f., that the language be amended to appear as follows, "Any other noise, odor, dust, hazard creating or nuisance bearing activities, services or processes operating in excess of state or federal regulations."; and,

(d) that with respect to Section 627.j., that the language be amended to appear as follows, "Any other noise, odor, dust, hazard creating or nuisance bearing activities, services or processes operating in excess of state or federal regulations."

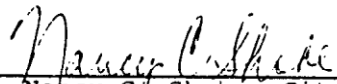
(4) That this Ordinance shall be deemed effective thirty (30) days following the third (3rd) reading, passage and adoption by the Council of the City of Buckhannon.

FIRST READING:	August 4, 1994
SECOND READING:	August 18, 1994
THIRD READING, PASSAGE AND ADOPTION:	September 1, 1994

Anthony A. Gum, Mayor

CERTIFICATE OF ENACTMENT

I, Nancy C. Shobe, Recorder of the City of Buckhannon, do hereby certify that the foregoing Ordinance No. 271 was lawfully ordained and enacted by the Council of the City of Buckhannon at a regular session of the said Council assembled on September 1, 1994.



Nancy C. Shobe, City Recorder

ORDINANCE NO. 281 OF THE CITY OF BUCKHANNON, AN ORDINANCE
AMENDING ZONING ORDINANCE NO. 244 OF THE CITY OF BUCKHANNON
BY (a) REZONING ALL OF THE REAL ESTATE SITUATED WITHIN THE FOUR (4)
BLOCK AREA BORDERED BY RANDOLPH STREET, MOORE AVENUE,
POCAHONTAS STREET AND MONONGALIA STREET FROM INDUSTRIAL TO
GENERAL RESIDENTIAL DISTRICT A, (b) REZONING ALL OF THE REAL ESTATE
SITUATED WITHIN THE TWO (2) BLOCK AREA BORDERED BY RANDOLPH,
TAYLOR, WOOD AND OHIO STREETS FROM INDUSTRIAL TO GENERAL
RESIDENTIAL DISTRICT A, (c) REZONING ALL OF THE REAL ESTATE SITUATED
FRONTING ON AND TO THE IMMEDIATE SOUTH OF MORTON AVENUE FROM
INDUSTRIAL TO HIGHWAY COMMERCIAL AND (d) ELIMINATING STONE
CRUSHING AND CONCRETE MIXING AS PERMITTED USES IN THE INDUSTRIAL
ZONE WITHIN THE CITY OF BUCKHANNON

Whereas, pursuant to the provisions of Ordinance No. 244 of the City of Buckhannon, all of the real estate situated within the four (4) block area bordered by Randolph Street, Moore Avenue, Pocahontas Street and Monongalia Street was zoned "I", i.e., "Industrial", and,

WHEREAS, further pursuant to the provisions of Ordinance No. 244, all of the real estate situated within the two (2) block area bordered by Randolph, Taylor, Wood and Ohio Streets was zoned "I", i.e., "Industrial"; and,

WHEREAS, further pursuant to the provisions of Ordinance No. 244, all of the real estate situated fronting on, and to the immediate south of Morton Avenue was zoned "I", i.e., "Industrial"; and,

WHEREAS, further pursuant to the provisions of Ordinance No. 244, all real estate situated within the City's Industrial zone was permitted to be utilized for stone crushing and concrete mixing; and,

WHEREAS, pursuant to a properly published public notice, a public meeting of the Planning Commission of the City of Buckhannon was held on August 29, 1995, to specifically consider possible amendments to Ordinance No. 244 insofar as (a) rezoning the aforesaid four (4) block area bordered by Randolph Street, Moore Avenue, Pocahontas Street and Ohio Street from "I", i.e., "Industrial", to "R-2", i.e., "General Residential District A", (b) rezoning the aforesaid two (2) block area bordered by Randolph, Taylor, Wood and Ohio Streets from "I", i.e., "Industrial", to "R-2", i.e., "General Residential District A", (c) rezoning all of the aforesaid real estate situated fronting on, and to the immediate south of Morton Avenue from "I", i.e., "Industrial", to "C-2", i.e., "Highway Commercial District", and (d) eliminating stone crushing and concrete mixing as permitted uses within the City's Industrial zone; and,

WHEREAS, as a result of the aforesaid meeting, the said Planning Commission voted to recommend that the City Council amend Ordinance No. 244 whereby all of provisions (a), (b), (c), and (d) as are set forth in the immediately preceding paragraph, be adopted and made a part of the City's comprehensive zoning ordinance, said recommendations being set forth within the minutes of the August 29, 1995 meeting of the Planning Commission and which recommendations are further contained and set forth within the Planning Commission's written report dated August 31, 1995, which report has been filed with the City Council; and,

WHEREAS, the Council of the City of Buckhannon now deems it to be reasonable and appropriate to adopt all of the Planning Commission's recommendations as are set forth within the Commission's report as emanating from the August 29, 1995 meeting.

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

(1) That the Council of the City of Buckhannon does hereby adopt all of the recommendations of the Planning Commission as are set forth within the Commission's report dated August 31, 1995 and as emanating from the August 29, 1995 meeting, and in so doing does specifically hereby amend Ordinance No. 244 of the City of Buckhannon, as follows:

(a) that with respect to any and all Sections of the foregoing Ordinance No. 244 including the current zoning map of the City, that any and all description and/or depiction of the real estate situated within the four (4) block area bordered by Randolph Street, Moore Avenue, Pocahontas Street and Monongalia Street as being zoned "I", i.e., "Industrial", shall be henceforth amended and rezoned as "R-2", i.e., "General Residential District A"; and,

(b) that with respect to any and all Sections of the foregoing Ordinance No. 244 including the current zoning map of the City, that any and all description and/or depiction of the real estate situated within the two (2) block area

bordered by Randolph, Taylor, Wood and Ohio Streets as being zoned "I", i.e., "Industrial", shall be henceforth amended and rezoned as "General Residential District A"; and,

(c) that with respect to any and all Sections of the foregoing Ordinance No. 244 including the current zoning map of the City, that any and all description and/or depiction of the estate situated fronting on, and to the immediate south of Morton Avenue as being zoned "I", i.e., "Industrial", shall be henceforth amended and rezoned as "C-2", i.e., "Highway Commercial District"; and,

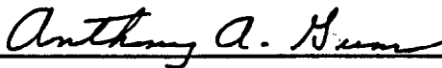
(d) that with respect to Section 509.A., and in order to expressly disallow and eliminate stone crushing and concrete mixing as permitted uses within the City's Industrial zone, that Subsection 2. be amended so as to eliminate and abolish the language "stone crushing, concrete mixing,"; and,

(e) that with respect to Section 509.A., and further in order to expressly disallow and eliminate stone crushing and concrete mixing as permitted uses within the City's Industrial zone, that Subsection 14.g. be established as "Stone crushing", and that Subsection 14.h be established as "Concrete mixing".

(2) That all other provisions of Ordinance No. 244 shall remain in full force and legal effect except for those provisions which are expressly amended pursuant to the provisions hereof.

(3) That 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., November 18, 1995.

FIRST READING:	September 21, 1995
SECOND READING:	October 5, 1995
THIRD READING, PASSAGE AND ADOPTION:	October 19, 1995



Anthony A. Gum, Mayor

CERTIFICATE OF ENACTMENT

I, Nancy C. Shobe, City Recorder, do hereby certify that the foregoing Ordinance No. 281 was lawfully ordained and enacted by the Council of the City of Buckhannon at a regular session of the said Council assembled on October 19, 1995.



Nancy C. Shobe, City Recorder

ORDINANCE NO. 282 OF THE CITY OF BUCKHANNON, AN ORDINANCE AMENDING ZONING ORDINANCE NO. 244 OF THE CITY OF BUCKHANNON, SPECIFICALLY REZONING VARIOUS TRACTS OF LAND, ALL GENERALLY SITUATED ON THE EASTERN SIDE OF SOUTH KANAWHA STREET, ALSO BEING WEST VIRGINIA STATE ROUTE NO. 20, AND FURTHER BEING SITUATED TO THE IMMEDIATE SOUTH OF MOORE AVENUE IN THE CITY OF BUCKHANNON, WITH THE REZONING TO RESULT IN A CHANGE OF ZONING DISTRICT FROM "R-1", SINGLE FAMILY RESIDENTIAL DISTRICT, TO "C-2", HIGHWAY COMMERCIAL DISTRICT OR "I", INDUSTRIAL DISTRICT

WHEREAS, pursuant to the provisions of Ordinance No. 244 of the City of Buckhannon, and specifically pursuant to Section 615 thereof, real estate annexed into the City of Buckhannon following the January 1, 1989 effectuation of Ordinance No. 244, is required to be classified as "R-1", Single Family Residential District, until such annexed real estate may be otherwise zoned; and,

WHEREAS, pursuant to the Order of the Upshur County Commission entered on July 27, 1995, various tracts of land aggregating approximately 32.6 acres, were annexed into the corporate limits of the City of Buckhannon, and which annexed area is generally situated on the eastern side of South Kanawha Street, also being West Virginia State Route No. 20, and further being situated to the immediate south of Moore Avenue in the City of Buckhannon, to the immediate west of the Buckhannon River, and to the immediate north of the unincorporated area known as Tennerton; and,

WHEREAS, pursuant to a properly published public notice, a public meeting of the Planning Commission of the City of Buckhannon was held on October 3, 1995, to consider the rezoning of the hereinabove referenced real estate, and to afford all interested parties the opportunity to be heard respecting any rezoning of the subject real estate; and,

WHEREAS, as a result of the aforesaid meeting, the said Planning Commission was of the opinion that the rezoning of a part or portion of the subject real estate to "C-2", Highway Commercial District, and the remaining part or portion of the subject real estate to "I", Industrial District, would be the most reasonable and appropriate manner of zoning the subject real estate; and,

WHEREAS, further as a result of the formal meeting of the Planning Commission, the members thereof resolved to submit a written report to the Council of the City of Buckhannon recommending that the Council approve and adopt the rezoning proposal of the Commission respecting the subject area; and,

WHEREAS, a written report from the Planning Commission dated October 5, 1995, was tendered to the City Council, which report fully sets forth the Planning Commission's recommendations respecting the rezoning of the subject area; and,

WHEREAS, the Council of the City of Buckhannon now deems it to be reasonable and appropriate to adopt the Planning Commission's recommendations as are set forth in the Commission's written report dated October 5, 1995.

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

(1) That the Council does hereby adopt the recommendations of the Planning Commission as are set forth in the written report of the Commission dated October 5, 1995, and in so doing does specifically hereby amend and change the zoning classification respecting all of those certain tracts of land aggregating approximately 32.6 acres and which are generally situated on the eastern side of South Kanawha Street, also being West Virginia State Route No. 20, and further being situated to the immediate south of Moore Avenue in the City of Buckhannon, to the immediate west of the Buckhannon River, and to the immediate north of the unincorporated area known as Tennerton, whereby all of the westernmost 240' portion of said rezoned area which abuts and fronts on West Virginia State Route No. 20 shall be rezoned to "C-2", Highway Commercial District, and the entire residuary portion of said rezoned area shall be rezoned to "I", Industrial District.

(2) That all of the real estate affected by this rezoning is more particularly shown and set forth upon that certain map which is attached hereto and which is expressly made a part hereof.

(3) That all other provisions of Ordinance No. 244 shall remain in full force and legal effect except for those provisions which are expressly amended pursuant to the provisions hereof.

(4) That 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., December 16, 1995.

FIRST READING:	October 19, 1995
SECOND READING:	November 2, 1995
THIRD READING, PASSAGE AND ADOPTION:	November 16, 1995



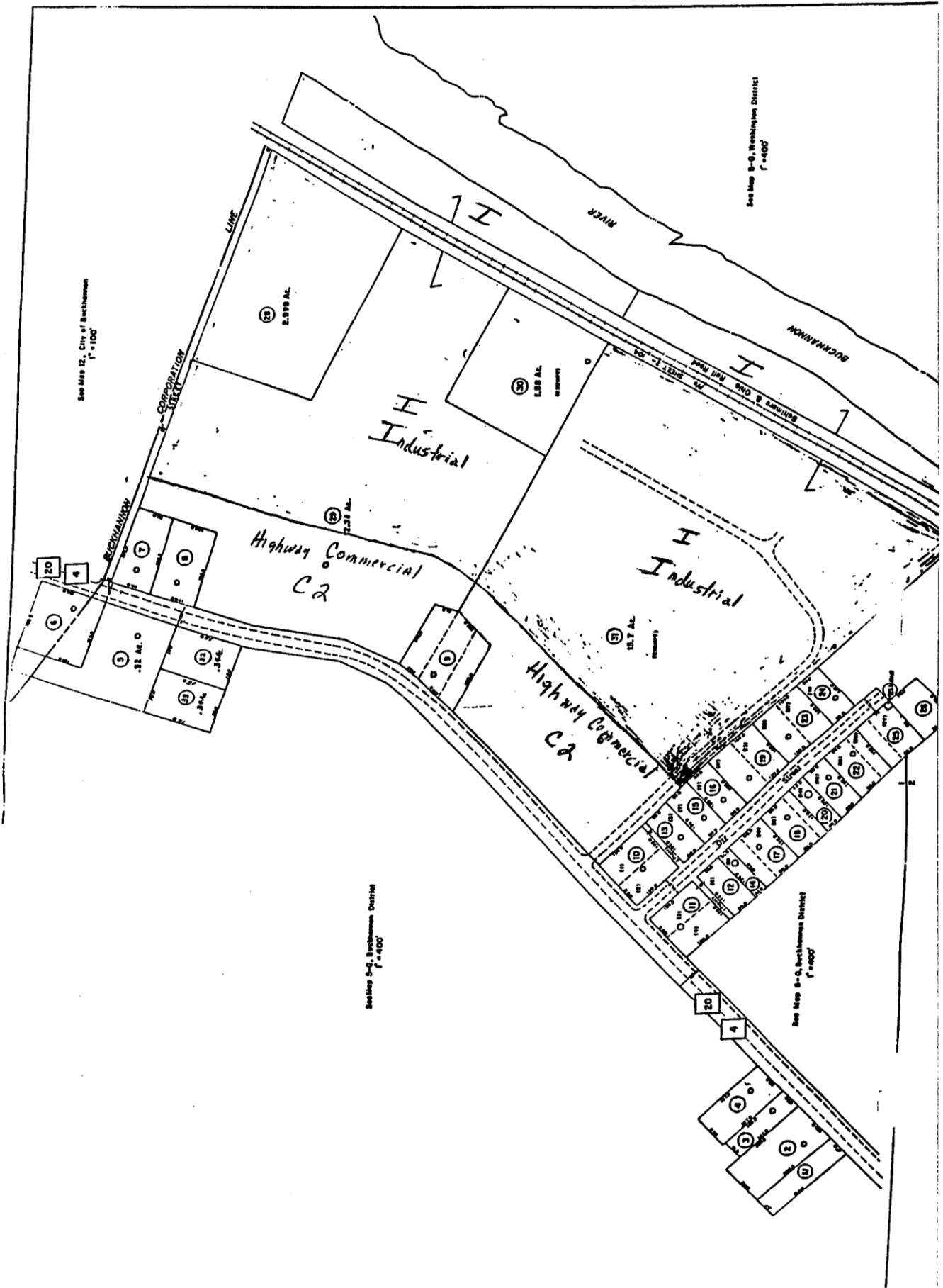
Anthony A. Gum, Mayor

CERTIFICATE OF ENACTMENT

I, Nancy C. Shobe, City Recorder, do hereby certify that the foregoing Ord. No. 282 was lawfully ordained and enacted by the Council of the City of Buckhannon at a regular session of the said Council assembled on November 16, 1995.



Nancy C. Shobe, City Recorder



See Map 12, City of Richmond
1"=100'

See Map 8-9, Richmond District
1"=400'

See Map 8-9, Richmond District
1"=400'

See Map 8-9, Richmond District
1"=400'

Effective May 6, 2000

ORDINANCE NO. 299 OF THE CITY OF BUCKHANNON, AN ORDINANCE AMENDING ZONING ORDINANCE NO. 244 OF THE CITY OF BUCKHANNON, BY (a) ESTABLISHING A NEW COMMERCIAL ZONING DISTRICT HEREAFTER TO BE KNOWN AND REFERRED TO AS "C-4", CORRIDOR DISTRICT; (b) ESTABLISHING A NEW ZONING DISTRICT HEREAFTER TO BE KNOWN AND REFERRED TO AS "MEM", MEMORIAL DISTRICT; (c) REZONING ALL OF THE REAL ESTATE ANNEXED INTO THE CORPORATE LIMITS OF BUCKHANNON IN DECEMBER OF 1999 FROM "R-1", SINGLE FAMILY RESIDENTIAL DISTRICT TO EITHER "C-4", CORRIDOR DISTRICT, OR "I", INDUSTRIAL DISTRICT, OR "P", PERMANENT PRESERVE DISTRICT, OR "MEM", MEMORIAL DISTRICT; (d) REZONING A PORTION OF PREVIOUSLY INCORPORATED REAL ESTATE SITUATED ALONG OR NEAR CORRIDOR "H" FROM EITHER "I", INDUSTRIAL DISTRICT, OR "C-2", HIGHWAY COMMERCIAL DISTRICT TO "C-4", CORRIDOR DISTRICT; AND (e) REZONING ALL OF THAT REAL ESTATE SITUATED TO THE WEST OF NORTH LOCUST STREET AND NORTH OF WEST MAIN STREET FROM "P", PERMANENT PRESERVE DISTRICT TO "C-1", CENTRAL BUSINESS DISTRICT

WHEREAS, pursuant to Section 615 of Ordinance No. 244 of the City of Buckhannon, real estate annexed into the City is classified as "R-1", Single Family Residence District, until such annexed areas may be otherwise zoned; and,

WHEREAS, on December 9, 1999, the County Commission of Upshur County, West Virginia, by Order duly entered, approved the application of The City of Buckhannon to annex into the City's corporate limits twenty-four (24) tracts of land together with the Corridor "H", U.S. Route No. 33 right of way from the Brushy Fork Road interchange to the Childers Run Road interchange, said twenty-four (24) tracts of land generally being situated both to the immediate north and south of the said Corridor "H" right of way; all of which real estate is thus zoned "R-1", Single Family Residence District; and,

WHEREAS, other real estate previously incorporated as part of the City of Buckhannon which is situated to the immediate south of the Corridor "H" right of way, and further which is situated either immediately adjacent to or otherwise in close proximity to the real estate referenced in the immediately preceding paragraph has been zoned as "I", Industrial; and,

WHEREAS, pursuant to the provisions of Ordinance No. 244 of the City of Buckhannon, a portion of the real estate situated to the west of North Locust Street and to the north of West Main Street was zoned "P", Permanent Preserve District; and,

WHEREAS, pursuant to two (2) properly published legal notices, public meetings of the Planning Commission of the City of Buckhannon were held on February 1 and 29, 2000, to specifically consider possible amendments to Ordinance No. 244 insofar as (a) rezoning the twenty-four (24) tracts of land together with the Corridor "H", U.S. Route No. 33 right of way from the Brushy Fork Road interchange to the Childers Run Road interchange from "R-1", i.e., Single Family Residence District, and (b) rezoning other real estate previously incorporated as part of the City of Buckhannon which is situated to the immediate south of the Corridor "H" right of way, and further which is situated either immediately adjacent to or otherwise in close proximity to the real estate recently annexed into the corporate limits from "I", Industrial District or "C-2", Highway Commercial District, and (c) rezoning the aforesaid portion of the real estate situated to the west of North Locust Street and to the north of West Main Street zoned "P", Permanent Preserve District; and,

WHEREAS, as a result of the two (2) aforesaid public meetings, the said Planning Commission voted to recommend that the City Council amend Ordinance No. 244 whereby two (2) new zoning districts be established, specifically "C-4", Corridor District, and "MEM", Memorial District, with certain defined principal and accessory uses respecting the two (2) new zoning districts; and,

WHEREAS, further as a result of the two (2) aforesaid public meetings, the said Planning Commission voted to recommend that the City Council amend Ordinance No. 244 to rezone the aforesaid twenty-four (24) tracts of land together with the Corridor "H", U.S. Route No. 33 right of way from the Brushy Fork Road interchange to the Childers Run Road interchange, said twenty-four (24) tracts of land generally being situated both to the immediate north and south of the said Corridor "H" right of way from "R-1", Single Family Residence District, to either "C-4", Corridor District, or "I", Industrial District, or "P", Permanent Preserve District, or "MEM", Memorial District, all in the manner of which is more particularly depicted and set forth upon that certain map which is attached hereto and which is expressly made a part hereof; and,

WHEREAS, further as a result of the two (2) aforesaid public meetings, the said Planning Commission voted to recommend that the City Council amend Ordinance No. 244 to rezone a portion of other real estate previously incorporated as part of the City of Buckhannon which is situated to the immediate south of the Corridor "H" right of way, and further which is situated either immediately adjacent to or otherwise in close proximity to the real estate recently annexed into the corporate limits from either "I", Industrial District or "C-2", Highway Commercial District, to "C-4", Corridor District; and,

WHEREAS, further as a result of the second of the two (2) aforesaid public meetings, the said Planning Commission voted to recommend that the City Council amend Ordinance No. 244 to rezone the aforesaid portion of the real estate situated to the west of North Locust Street and to the north of West Main Street from "P", Permanent Preserve District to "C-1", Central Commercial Business District, all in the manner of which is more particularly depicted and set forth upon the attached map; and,

WHEREAS, the Council of the City of Buckhannon now deems it to be reasonable and appropriate to adopt all of the foregoing recommendations of the Planning Commission as are set forth within the Commission's report emanating from the February 1 and 29 meetings, and further in the manner as is depicted and set forth upon the attached map.

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

- (1) That the Council of the City of Buckhannon does hereby adopt all of the recommendations of the Planning Commission as are set forth within the Commission's report initially dated February 1, 2000, and revised on March 1, 2000 and as emanating from the aforesaid February 1 and 29, 2000 meetings, and in so doing does specifically hereby amend Ordinance No. 244 of the City of Buckhannon, as follows:

- (A) Section 301 and any and all other appropriate Sections of Ordinance No. 244 are hereby amended to reflect the establishment of a new, commercial zoning district hereafter to be known and referred to as "C-4", Corridor District, which Corridor District shall be deemed as incorporated by amendment to Ordinance No. 244 as "SECTION 513. C-4, CORRIDOR DISTRICT";

(i) Subsection "A." of the new Section 513 is hereby established as follows, "A. THE FOLLOWING BUILDINGS AND USES SHALL BE PERMITTED IN C-4, CORRIDOR DISTRICT:

1. Any residential or commercial use as permitted in either R-5, Public Housing Project District, or C-2, Highway Commercial District, except warehousing of any kind shall not be permitted.
2. Building material supplies and lumber sales.
3. Laboratories devoted to research, design, experimentation, processing and fabrication, incidental thereto.
4. Printing and publishing.
5. Carpentry, electrical, plumbing, heating and sheet metal shops, furniture upholstering shops, laundries and clothes cleaning or dyeing establishments.
6. The manufacture of musical instruments, toys, novelty items, rubber or metal stamps, and other small molded rubber products.
7. The manufacture or repair of computer equipment and other electronic instruments and devices.
8. Utility operations."

(ii) Subsection "B." of the new Section 513 is hereby established as follows, "B. THE FOLLOWING ACCESSORY USES AND BUILDINGS SHALL BE PERMITTED IN C-4, CORRIDOR DISTRICT:

1. Any accessory use as permitted in either R-5, Public Housing Project District, or C-2, Highway Commercial District, except as modified by 2, immediately hereinbelow.
2. Signs are permitted as follows:
 - a. One free standing sign not exceeding 300 square feet (as calculated on one side) and not exceeding fifty feet (50') in height, and identifying the principal use of the commercial activity occurring on or within the commercial premises.
 - b. In the event that the one free standing sign described in "a.", immediately hereinbefore, is less than twenty-five feet (25') in height, then said sign shall not exceed 100 square feet.

- c. All other signs shall be attached to the principal building, the business of which said signs are identifying."

(B) Section 301 and any and all other appropriate Sections of Ordinance No. 244 are hereby amended to reflect the establishment of a new, zoning district hereafter to be known and referred to as "MEM", Memorial District, which shall be deemed as incorporated by amendment to Ordinance No. 244 as "SECTION 514. MEM, MEMORIAL DISTRICT";

- (i) Subsection "A." of the new Section 514 is hereby established as follows, "A. THE FOLLOWING BUILDINGS, USES AND ACCESSORY USES SHALL BE PERMITTED IN MEM, MEMORIAL DISTRICT:

1. Such limited existing and common uses of cemeteries, as are currently or hereafter authorized by the City's Consolidated Public Works Board, which Board oversees the operations of municipally owned cemeteries.
2. Mausoleums, pavilions and other buildings and structures, provided that the same are formally approved in advance of construction by the City's Consolidated Public Works Board, or the Board's designee.
3. Signs only as authorized by the City's Consolidated Public Works Board."

(C) The aforesaid twenty-four (24) tracts of land together with the Corridor "H", U.S. Route No. 33 right of way from the Brushy Fork Road interchange to the Childers Run Road interchange, said twenty-four (24) tracts of land generally being situated both to the immediate north and south of the said Corridor "H" right of way, currently zoned "R-1", Single Family Residence District, are hereby rezoned to either "C-4", Corridor District, or "I", Industrial District, or "P", Permanent Preserve District, or "MEM", Memorial District, all in the manner of which is more particularly depicted and set forth upon the attached map.

(D) The portion of other real estate previously incorporated as part of the City of Buckhannon which is situated to the immediate south of the Corridor "H" right of way, and further which is situated either immediately adjacent to or otherwise in close proximity to the real estate recently annexed into the corporate limits, currently zoned either "I", Industrial District, or "C-2", Highway Commercial District, is hereby rezoned to "C-4", Corridor District, all in the manner of which is more particularly depicted and set forth upon the attached map.

(E) The aforesaid portion of the real estate situated to the west of North Locust Street and to the north of West Main Street currently zoned "P", Permanent Preserve District, is hereby rezoned to "C-1", Central Commercial Business District, all in the manner of which is more particularly depicted and set forth upon the attached map.

- (2) That all other provisions of Ordinance No. 244 and 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.
- (3) That 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., May 6, 2000.

FIRST READING:

March 2, 2000

SECOND READING:

March 16, 2000

THIRD READING, PASSAGE AND ADOPTION:

April 6, 2000

s/s Elizabeth J. Poundstone
Elizabeth J. Poundstone, Mayor

CERTIFICATE OF ENACTMENT

I, Nancy C. Shobe, City Recorder, do hereby certify that the foregoing Ordinance No. 299 was lawfully ordained and enacted by the Council of the City of Buckhannon at a regular session of the said Council assembled on April 6, 2000.

s/s Nancy C. Shobe
Nancy C. Shobe, City Recorder

ORDINANCE NO. 305 OF THE CITY OF BUCKHANNON, AN ORDINANCE AMENDING ZONING ORDINANCE NO. 244 OF THE CITY OF BUCKHANNON, BY REZONING ALL OF THE REAL ESTATE SITUATED WITHIN THE ONE (1) BLOCK AREA BORDERED BY MARION STREET, WOOD STREET, PRESTON STREET, AND THE ALLEY DIVIDING AND GENERALLY PARALLEL WITH WOOD STREET AND RANDOLPH STREET AND INTERSECTING MARION STREET AND PRESTON STREET, FROM GENERAL RESIDENTIAL DISTRICT B, (R-3) TO INDUSTRIAL DISTRICT (I)

WHEREAS, pursuant to the provisions of Ordinance No. 244 of the City of Buckhannon, all of the real estate situated within the one (1) block area bordered by Marion Street, Wood Street, Preston Street and the alley dividing Wood Street and Randolph Street and intersecting Marion Street and Preston Street was zoned "R-3", i.e., "General Residential District B"; and,

WHEREAS, pursuant to a properly published public notice, a public meeting of the Planning Commission of the City of Buckhannon was held on August 19, 2002, specifically to consider possible amendment to Ordinance No. 244 insofar as rezoning the aforesaid one (1) block area from "R-3", i.e., "General Residential District B", to "I", i.e., "Industrial District"; and,

WHEREAS, as a result of the aforesaid meeting, the said Planning Commission voted to recommend that the City Council amend Ordinance No. 244 whereby the aforesaid real estate would be rezoned from "R-3", i.e., "General Residential District B", to "I", i.e., "Industrial District", said recommendation being set forth within the minutes of the August 19, 2002 meeting of the Planning Commission and which recommendation further was contained and set forth within the Planning Commission's written report also dated August 19, 2002, which report was previously filed with the City Council and made a part of the minutes of the City Council meeting of September 5, 2002; and,

WHEREAS, the Council of the City of Buckhannon now deems it to be reasonable and appropriate to adopt the Planning Commission's recommendation as is set forth within the Commission's report as emanating from the August 19, 2002 meeting and to rezone the subject real estate from "R-3", i.e., "General Residential District B", to "I", i.e., "Industrial District", all of which real estate subject to this rezoning being more-particularly shown and depicted upon that certain map which is attached hereto and which is expressly made a part hereof.

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

(1) That the Council of the City of Buckhannon does hereby adopt the recommendation of the Planning Commission as is set forth within the Commission's report dated August 19, 2002 and as emanating from the August 19, 2002 meeting and public hearing, and in so doing does specifically hereby

public hearing, and in so doing does specifically hereby amend Ordinance No. 244 of the City of Buckhannon, to reflect that with respect to any and all Sections of the foregoing Ordinance No. 244 and any and all other amendatory ordinances thereto, and further including the current zoning map of the City, that any and all description and/or depiction of the real estate situated within the one (1) block area bordered by Marion Street, Wood Street, Preston Street and the alley dividing and parallel with Wood Street and Randolph Street and intersecting Marion Street and Preston Street as being zoned "R-3", i.e., "General Residential District B", shall be henceforth amended and rezoned as "I", i.e., "Industrial District".

(2) That all other provisions of Ordinance No. 244 and any and all other amendatory ordinances thereto, shall remain in full force and legal effect except for those provisions which are expressly amended pursuant to the provisions hereof.

(3) That 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., upon December 6, 2002.

FIRST READING: September 19, 2002

SECOND READING: October 3, 2002

THIRD READING, PASSAGE AND ADOPTION: November 7, 2002

James W. Knorr, III, Mayor

CERTIFICATE OF ENACTMENT

I, Nancy C. Shobe, City Recorder, do hereby certify that the foregoing Ordinance No. 305 was lawfully ordained and enacted by the Council of the City of Buckhannon at a regular session of the said Council assembled on November 7, 2002.

Nancy C. Shobe, City Recorder

ORDINANCE NO. 308 OF THE CITY OF BUCKHANNON, AN ORDINANCE PROVIDING FOR THE ANNEXATION OF 14.14 ACRES OF LAND SITUATED ALONG OR NEAR THE BRUSHY FORK ROAD AND TO THE IMMEDIATE SOUTH OF U.S. ROUTE NO. 33 IN BUCKHANNON DISTRICT OF UPSHUR COUNTY, INTO THE CORPORATE LIMITS OF THE CITY OF BUCKHANNON PURSUANT TO THE ANNEXATION BY PETITION METHOD ESTABLISHED BY CHAPTER 8, ARTICLE 6, SECTION 4 OF THE WEST VIRGINIA CODE

WHEREAS, Chapter 8, Article 6, Section 4 of the West Virginia Code, as amended, provides for the governing body of a municipality to annex additional territory into the corporate limits by ordinance upon a majority of the qualified voters of the proposed additional territory filing a petition to have their real estate annexed; and,

WHEREAS, five (5) tracts of land aggregating 14.14 acres, have been identified for annexation into the corporate limits; and,

WHEREAS, all of the owners of the five (5) tracts of land are "qualified voters" as defined and described pursuant to Chapter 8, Article 6, Section 4(b) of the West Virginia Code; and,

WHEREAS, Chapter 8, Article 6, Section 4(f) of the West Virginia Code expressly provides that "[i]f all of the eligible petitioners are qualified voters, only a voters' petition [as opposed to both a voters' petition and a freeholders' petition] is required; and,

WHEREAS, a majority of the five (5) qualified voters being the owners of the five (5) tracts of land aggregating 14.14 acres have filed with the City of Buckhannon, their qualified voter petition requesting their real estate be annexed into the corporate limits of Buckhannon; and,

WHEREAS, the Council of the City of Buckhannon has enumerated the total number and verified the identities of the eligible petitioners in the manner required pursuant to Chapter 8, Article 6, Section 4(e) of the West Virginia Code, said information being contained within a chart appearing hereinafter specifically listing the qualified voters and their real estate interests; and,

WHEREAS, a map accurately showing and depicting the 14.14 acres of land proposed for annexation by the petition method, all as established pursuant to Chapter 8, Article 6, Section 4 of the West Virginia Code, has been prepared, a copy of which is attached hereto and is expressly made a part hereof; and,

WHEREAS, the Council of the City of Buckhannon is now satisfied that the petition now herein filed is sufficient in every respect; and,

WHEREAS, the Council now desires to approve in every respect the subject request for annexation; and,

WHEREAS, the Council further desires to authorize the Mayor of the City of Buckhannon to execute and then deliver an appropriate certificate as described pursuant to Chapter 8, Article 6, Section 4(g) of the West Virginia Code unto the Upshur County Commission to fully effect said annexation.

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

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

(1) The City of Buckhannon has received a petition for annexation from a majority of five (5) qualified voters aggregately owning 14.14 acres of land along or near the Brushy Fork Road to the immediate south of U.S. Route No. 33 in Buckhannon District, Upshur County, West Virginia;

(2) All of the eligible petitioners are qualified voters as defined and described in Chapter 8, Article 6, Section 4(b) of the West Virginia Code;

(3) A separate "freeholder" petition, therefore, is not required to be filed pursuant to Chapter 8, Article 6, Section 4(f) of the West Virginia Code;

(4) The 14.14 acres of land proposed for annexation by petition is presently titled as follows:

(1) A.D.S. WV Properties, L.L.C.	13.19 acres
(2) Delta West, L.L.C.	0.72 acres
(3) The City of Buckhannon, a municipal corporation	0.06 acres
(4) The Rohr & Lewis Company, L.L.C.	0.08 acres
(5) <u>Lewis & Rohr, Inc., a West Virginia corporation</u>	<u>0.09 acres</u>
Total	14.14 acres

(5) A map accurately showing and depicting the 14.14 acres of land proposed for annexation has been prepared, and a copy is attached hereto and expressly made a part of this ordinance;

(6) The Council of the City of Buckhannon is now satisfied that the petition herein filed is sufficient in every respect and conforms to the requirements of Chapter 8, Article 6, Section 4 of the West Virginia Code, as amended; and,

(7) The Council now approves in every respect the subject request for annexation and expressly authorizes the Mayor of the City of Buckhannon to execute and then deliver an appropriate certificate as described pursuant to Chapter 8, Article 6, Section 4(g) of the West Virginia Code unto the Upshur County Commission to fully effect this annexation.

ARTICLE II - 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., May 17, 2003.

FIRST READING:

April 3, 2003

SECOND READING, PASSAGE AND ADOPTION:

April 17, 2003


James W. Knorr, III, Mayor

CERTIFICATE OF ENACTMENT

I, Nancy C. Shobe, City Recorder, do hereby certify that the foregoing Ordinance No. 308 was lawfully ordained and enacted by the Council of the City of Buckhannon at a regular session of the said Council assembled on April 17, 2003.


Nancy C. Shobe, City Recorder

ORDINANCE NO. 316 OF THE CITY OF BUCKHANNON, AN ORDINANCE
AMENDING ZONING ORDINANCE NO. 244 OF THE CITY OF BUCKHANNON,
BY:

(1) AMENDING PERMITTED USES IN THE R-2, GENERAL RESIDENTIAL DISTRICT "A" ZONE TO INCLUDE FLORAL AND GIFT SHOPS AS IS MORE SPECIFICALLY HEREINAFTER DESCRIBED;

(2) REZONING 14 LOTS OR PARCELS OF LAND PRESENTLY TITLED EITHER WITH FAIR SKIES CORPORATION OR THE CITY OF BUCKHANNON AND GENERALLY SITUATED TO THE EAST OF SECOND STREET, BUT TO THE WEST OF FIFTH STREET, AND TO THE SOUTH OF THE B & O RAILROAD TRACKS, BUT TO THE NORTH OF THURMAN AVENUE, ALL IN THE NORTH BUCKHANNON AREA OF BUCKHANNON, FROM R-2 TO INDUSTRIAL;

(3) REZONING THE 16 LOTS OR PARCELS OF LAND INCLUDING BUT NOT LIMITED TO THE HAMPTON INN PROPERTY, GENERALLY SITUATED ALONG CORRIDOR "H", I.E., U.S. ROUTE NO. 33, AND ANNEXED ON DECEMBER 20, 2001, FROM R-1, I.E., SINGLE FAMILY RESIDENTIAL, TO C-4, I.E., CORRIDOR DISTRICT, OR ALTERNATIVELY TO SUCH OTHER APPROPRIATE COMMERCIAL ZONE;

(4) REZONING THE FIVE (5) LOTS OR PARCELS OF LAND INCLUDING BUT NOT LIMITED TO THE A.D.S. PROPERTY, GENERALLY SITUATED ALONG THE BRUSHY FORK ROAD, AND ANNEXED ON MAY 22, 2003, FROM R-1 TO INDUSTRIAL;

(5) REZONING THE 35 LOTS OR PARCELS OF LAND INCLUDING BUT NOT LIMITED TO THE LOWE'S HOME IMPROVEMENT CENTER, GENERALLY SITUATED ALONG OR NEAR CORRIDOR H AND WEST VIRGINIA STATE ROUTE NO. 20. AND ANNEXED ON SEPTEMBER 9, 2004, FROM R-1 TO C-4, I.E., CORRIDOR DISTRICT; AND,

(6) RESTRICTING THE LONG-TERM PARKING AND/OR STORAGE OF COMMERCIAL VEHICLES, HEREINAFTER DEFINED, IN ALL RESIDENTIALLY ZONED DISTRICTS OF THE CITY

WHEREAS, pursuant to the provisions of Ordinance No. 244 of the City of Buckhannon, real estate currently situated within the R-2, General Residential District A Zone, is not permitted to be utilized for the establishment of floral and gift shops; and,

WHEREAS, following a properly published legal notice, a public meeting of the Planning Commission of the City of Buckhannon was held on March 16, 2005, specifically to consider possible amendment of Ordinance No. 244 insofar as permitting the establishment of floral and gift shops within the City's R-2 Zone; and,

WHEREAS, as a result of the aforesaid meeting, the Planning Commission voted to recommend that the City Council amend Ordinance No. 244 to authorize real estate situated within the City's R-2 Zone to be utilized for the establishment of floral and gift shops, to be appropriately defined and limited; and,

WHEREAS, further during the aforesaid March 16, 2005 meeting of the City's Planning Commission, the Commission further specifically considered possible amendments to Ordinance No. 244, to rezone various properties situated within the City's corporate limits, three (3) of the four (4) areas proposed for rezoning being required due to recent annexations of those properties into Buckhannon's corporate limits, and the fourth area's rezoning having been considered to permit the property therein to be utilized in a manner more consistent with the usage of other properties situated within that area now proposed for rezoning; and,

WHEREAS, further as a result of the March 16, 2005 meeting, the Planning Commission voted to recommend that the City Council amend Ordinance No. 244 to rezone the four (4) areas of properties hereinafter described and referenced all in the various manners as are hereinafter set forth, and further which are more particularly shown and depicted upon that certain map which is attached hereto and which is expressly made a part hereof; and,

WHEREAS, further as a result of the March 16, 2005 meeting, the Planning Commission voted to recommend that the City Council add provisions and amend Ordinance No. 244 to restrict the long-term parking and/or storage of commercial vehicles upon all public property, "public property" including but not being limited to public streets and alleys, in all residentially zoned districts of the City; and,

WHEREAS, the Council of the City of Buckhannon now deems it to be reasonable and appropriate to adopt and implement all of the Planning Commission's six (6) recommendations as are set forth within the Planning Commission's report dated March 16, 2005 and as emanating from the March 16, 2005 meeting and specifically desires to: (1) authorize the establishment of floral and gift shops in the City's R-2 zone, (2) rezone the four (4) areas of properties hereinafter described and referenced, and (3) restrict the long-term parking and/or storage of commercial vehicles on all public property, "public property" including but not being limited to public streets and alleys, in all residentially zoned districts of the City; and,

WHEREAS, the statutory provisions of Chapter 8, Article 11, Section 3(8), and Chapter 8, Article 24, Section 45 of the West Virginia Code, as amended, require that amendments to the comprehensive zoning ordinance be effected by the adoption of an 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 the amendments to the City's comprehensive zoning ordinance, being Ordinance No. 244, are concerned.

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

(1) That the Council of the City of Buckhannon does hereby adopt all six (6) of the recommendations of the Planning Commission as are set forth within the Commission's report dated March 16, 2005 and as emanating from the March 16, 2005 meeting and public hearing, and in so doing does specifically hereby amend Ordinance No. 244 of the

City of Buckhannon, to incorporate the following:

(A) the amendment of permitted uses in the R-2, General Residential District "A" zone to include floral and gift shops. More specifically, it shall be permitted to establish a floral and gift shop in the R-2 Zone where the primary business activity is that customarily and normally established for the creation, presentation, and sales of ornamental arrangements of both fresh and artificial floral and related decorations. Furthermore, activities that are typically part of or directly related to the sales of such items may also be located at the same location provided the floor space allocated to and the revenue derived from such sales shall not exceed 25% of the total floor space or revenue of the establishment;

(B) the rezoning of 14 lots or parcels of land presently titled either with Fair Skies Corporation or the City of Buckhannon and generally situated to the east of Second Street, but to the west of Fifth Street, and to the south of the B & O railroad tracks, but to the north of Thurman Avenue, all in the North Buckhannon area of Buckhannon, from R-2 to Industrial;

(C) the rezoning of the 16 lots or parcels of land including but not limited to the Hampton Inn property, generally situated along Corridor "H", i.e., U.S. Route No. 33, and annexed on December 20, 2001, from R-1, i.e., Single Family Residential, to C-4, i.e., Corridor District, or alternatively to such other appropriate commercial zone;

(D) the rezoning of the five (5) lots or parcels of land including but not limited to the A.D.S. property, generally situated along the Brushy Fork Road, and annexed on May 22, 2003, from R-1 to Industrial;

(E) the rezoning of the 35 lots or parcels of land including but not limited to the Lowe's Home Improvement Center, generally situated along or near Corridor H and West Virginia State Route No. 20. and annexed on September 9, 2004, from R-1 to C-4, i.e., Corridor District; and,

(F) the restriction of the long-term parking and/or storage of commercial vehicles, to be defined, in all residentially zoned districts of the City. More specifically, the parking and/or storage of commercial vehicles upon all public property, "public property" including but not being limited to public streets and alleys, for a period of time exceeding one (1) hour, except in emergency situations or for such length of time as may be necessary for the pick-up, loading, unloading, or delivery of materials and/or passengers in any residentially zoned area, is prohibited. This prohibition shall be enforced by complaint of the zoning officer or any City police officer. For the purposes of this Ordinance, "commercial vehicle" shall be defined as any vehicle whose Tare weight exceeds five (5) tons, i.e., 10,000 pounds, or any vehicle having more than two (2) axles, or any vehicle exceeding eight feet (8') in height as measured from the pavement. Construction equipment and farming equipment of any type are expressly included in this definition, except when being utilized in an immediately ongoing construction or farming activity at the site of parking and/or storage.

(2) That all other provisions of Ordinance No. 244 and any and all other amendatory ordinances thereto, shall remain in full force and legal effect except for those provisions

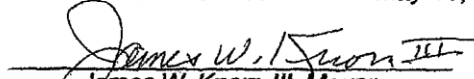
which are expressly amended pursuant to the provisions hereof.

(3) That 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., upon June 18, 2005.

FIRST READING: April 21, 2005


SECOND READING: May 5, 2005

THIRD READING, PASSAGE AND ADOPTION: May 19, 2005


James W. Knorr, III, Mayor

CERTIFICATE OF ENACTMENT

I, Nancy C. Shobe, City Recorder, do hereby certify that the foregoing Ordinance No. 316 was lawfully ordained and enacted by the Council of the City of Buckhannon at a regular session of the said Council assembled on May 19, 2005.


Nancy C. Shobe, City Recorder

ORDINANCE NO. 353 OF THE CITY OF BUCKHANNON,
AN ORDINANCE: (1) ESTABLISHING A FLOODPLAIN AREA AND
REQUIRING ALL CONTRACTORS, PERSONS, PARTNERSHIPS, BUSINESSES, AND CORPORATIONS TO OBTAIN A
PERMIT FOR THE DEVELOPMENT AND CONSTRUCTION, SUBSTANTIAL IMPROVEMENT , OR RELOCATION OF ANY
BUILDING OR STRUCTURE; (2) PROVIDING FOR CERTAIN MINIMUM STANDARDS FOR CONSTRUCTION WITHIN THE
FLOODPLAIN AREA AND SETTING FORTH SPECIAL PROCEDURES FOR SUBMISSION AND APPROVAL OF PLANS;
(3) ESTABLISHING PENALTIES FOR ANY PERSON WHO FAILS TO COMPLY WITH THE REQUIREMENTS OR PROVISIONS
OF THIS ORDINANCE; AND (4) AMENDING ORDINANCES NO. 237, 303 AND 351 OF THE CITY OF BUCKHANNON

WHEREAS, the City of Buckhannon has long been a participant in the National Flood Insurance Program (NFIP) as evidenced by the City's adoption of Ordinances No. 237 on September 4, 1986, No. 303 on December 20, 2001, and further No. 351 on August 5, 2010; and,

WHEREAS, it is reasonable and necessary in order for the residents of the City of Buckhannon to be able to obtain and maintain flood insurance protection, that the City of Buckhannon fully comply with the regulations of the National Flood Insurance Program (NFIP); and,

WHEREAS, the NFIP regulations require that participating municipalities control future development in flood prone areas by specifically enacting ordinances and adopting policies to regulate and control future construction and development in flood prone areas; and,

WHEREAS, the provisions of this ordinance have been prepared with the intention of meeting the requirements of Section 60.3(d) of the National Flood Insurance Program, the National Floodplain Insurance Act of 1968 (Public Law 91-152) amended by the Congress of the United States through February 15, 1975, West Virginia Code 7-1-3v, 7-1-3n, and 7-1-3kk, and West Virginia Code 8A-4-2, 8A-5-7, and 8A-7-2; and,

WHEREAS, there were certain errors inadvertently included in the form ordinance provided to the City of Buckhannon by the West Virginia Department of Military Affairs and Public Safety's Division of Homeland Security and Emergency Management all respecting the "Base Flood Elevation," wherein said form Ordinance as adopted by the Buckhannon City Council as City of Buckhannon Ordinance No. 351, the base flood elevation was sometimes identified as being "two feet" and other times identified as being "18 inches"; and,

WHEREAS, the base flood elevation set forth within Ordinance No. 351 was intended in all instances to be "18 inches" and not "two feet"; and,

WHEREAS, the Council of the City of Buckhannon deems it to be reasonable and necessary to correct all of the aforesaid errors contained in Ordinance No. 351, there being eight (8) errors set forth throughout Ordinance No. 351 respecting the base flood elevation, to unequivocally establish Buckhannon's base flood elevation as universally being "18 inches" throughout the City of Buckhannon's Flood Plain Ordinance;

WHEREAS, the Council of the City of Buckhannon further deems it to be reasonable and necessary to comply with and to adhere to the future construction and development regulations established by the NFIP, including the adoption of an ordinance regulating future construction and development, in order that the residents of the City of Buckhannon may be able to obtain flood insurance.

NOW, THEREFORE, BE IT ENACTED AND ORDAINED BY THE CITY OF BUCKHANNON, UPSHUR COUNTY, WEST VIRGINIA, AS FOLLOWS:

ARTICLE I - GENERAL PROVISIONS:

Section 1.1 Intent

The intent of this ordinance is to:

- A. Promote the general health, welfare, and safety of the community.
- B. Encourage the utilization of appropriate construction practices in order to prevent or minimize flood damage in the future.
- C. Minimize danger to public health and safety by protecting water supply and sanitary sewage disposal in cooperation with the County Sanitarian, and to protect natural drainage.
- D. Assure the County Assessor obtains information concerning improvement of real property as required by WV State Code 11-3-3A.
- E. Assure County E-911 addresses are obtained to maintain the currency of established emergency response dispatch systems.
- F. Reduce financial burdens imposed on the community, its governmental units, and its residents, by preventing the unwise design and construction of development in areas subject to flooding.

Section 1.2 Abrogation and Greater Restrictions

This ordinance supersedes any ordinance currently in effect in flood prone areas. Any ordinance, however, shall remain in full force and effect to the extent that its provisions are more restrictive.

Section 1.3 Applicability

It shall be unlawful for any contractor, person, partnership, business, or corporation to undertake or cause to be undertaken, any development, new construction, substantial improvement, repair of substantial damage, or the placement or relocation of any structure (including manufactured homes) within the City of Buckhannon unless a permit application has been completed and a permit or certificate of compliance has been obtained from the Permit Officer. In addition, where land partially or fully in the floodplain is to be developed, subdivided, utilized for a manufactured home park or subdivision or otherwise developed, a site plan with elevation data must be submitted to, and approved by, the Permit Officer prior to any development.

Provision of all other codes, ordinances, and regulations shall be applicable insofar as they are consistent with the provisions of this ordinance and the community's need to minimize the hazards and damage resulting from flooding.

Section 1.4 Matters not provided for specifically

Where conditions are encountered that are not specifically provided for herein, the Permit Officer shall determine the applicability of the provisions of this ordinance in accordance with its intent, and shall require the applicant to take appropriate measures pursuant to such determination.

ARTICLE II - INTERPRETATIONS AND DEFINITIONS:

Section 2.1 Interpretations

A. For the purpose of this ordinance, the following interpretations shall apply:

1. Words used in the present tense include the future tense
2. The singular includes the plural.
3. The plural includes the singular.
4. The word "person" includes corporation, unincorporated association or partnership as well as an individual
5. The Term "shall" or "will" is always mandatory.
6. The word "building" or "structure" shall be construed as if followed by the phrase "or part thereof".
7. The word "Ordinance" shall refer to the Floodplain Ordinance.

Section 2.2 Definitions

General

Unless specifically defined below, words and phrases used in this ordinance shall be interpreted so as to give this ordinance it's most reasonable application.

Appurtenant Structure

A structure on the same parcel of property as the principal structure and the use of which is incidental to the use of the principal structure. This does not include a gas or liquid storage tank.

Base Flood

The flood, which has been selected to serve as the basis upon which the floodplain management provisions of this and other ordinances have been prepared; for purposes of this ordinance, the one-hundred (100) year flood.

Base Flood Elevation: The water surface elevation of the base flood in relation to the datum specified on the community's Flood Insurance Rate Map. For the purposes of this ordinance, the one hundred (100) year flood or 1% annual chance flood.

Basement

Any area of the building having its floor sub grade (below ground level) on all sides.

Certificate of Compliance

A certification that the entire development, including the elevation of fill or the lowest floor of a structure is in compliance with all of the provisions of this ordinance.

Contractor - WV State Code 21-11-3(c)

A person who in any capacity for compensation, other than as an employee of another, undertakes, offers to undertake, purports to have the capacity to undertake, or submits a bid to construct, alter, repair, add to, subtract from, improve, move, wreck or demolish any building, highway, road, railroad, structure or excavation associated with a project, development or improvement, or to do any part thereof, including the erection of scaffolding or other structures or works in connection therewith, where the cost of the undertaking is one thousand dollars or more. Contractor includes a construction manager who performs management and counseling services on a construction project for a professional fee.

Contractor does not include:

- (1) One who merely furnishes materials or supplies without fabricating or consuming them in the construction project.
- (2) A person who personally performs construction work on the site of real property which the person owns or leases whether for commercial or residential purposes;
- (3) A person who is licensed or registered as a professional and who functions under the control of any other licensing or regulatory board, whose primary business is real estate sales, appraisal, development, management and maintenance, who acting in his or her respective professional capacity and any employee of such professional, acting in the course of his or her employment, performs any work which may be considered to be performing contracting work
- (4) A pest control operator licensed under the provisions of section seven, article sixteen-a, chapter nineteen of this code to engage in the application of pesticides for hire, unless the operator also performs structural repairs exceeding one thousand dollars on property treated for insect pests; or
- (5) A corporation, partnership or sole proprietorship whose primary purpose is to prepare construction plans and specifications used by the contractors defined in this section and who employs full time a registered architect licensed to practice in this state or a registered professional engineer licensed to practice in this state. Contractor also does not include employees of such corporation, partnership or sole proprietorship.

Critical Facility

Any facility in which even a slight chance of flooding is too great a threat. Typical critical facilities include hospitals, fire stations, police stations, storage of critical records, and similar facilities. These should be given special consideration when formulating regulatory alternatives and floodplain management plans. A critical facility should not be located in a floodplain if at all possible. If a critical facility must be located in a floodplain it should be provided a higher level of protection so that it can continue to function and provide services during a flood.

Development

Any man-made change to improved or unimproved real estate, including but not limited to buildings or other structures, mining, dredging, filling, grading, paving, excavation or drilling operations or storage of equipment or materials.

Flood

A general and temporary inundation of normally dry land areas.

Flood Insurance Rate Map (FIRM)

The official map on which the Federal Emergency Management Agency or Federal Insurance Administrator has delineated both the areas of special flood hazard areas and the risk premium zones applicable to the community

Flood Insurance Study:

The official report in which the Federal Emergency Management Agency has provided flood profiles, floodway information, and water surface elevations

Floodplain

- (1) A relatively flat or low land area adjoining a river, stream, or watercourse which is subject to partial or complete inundation;
- (2) An area subject to the unusual and rapid accumulation or runoff of surface waters from any source.

Floodway

The channel of a river or other watercourse and the adjacent land area that must be reserved to discharge the base flood without increasing the water surface elevation of that flood more than one foot at any point.

Flood proofing

Any combination of structural and non-structural additions, changes or adjustments to structures which reduce or eliminate flood damage to real estate or improved real property, water and sanitary facilities, structures and their contents.

Freeboard

A factor of safety usually expressed in feet above a flood level for purposes of floodplain management. Freeboard tends to compensate for unknown factors that may contribute uncertainty to flood heights of any given flood and floodway condition, such as wave action, blockage at stream crossings, and increased runoff from urbanization of the watershed.

Highest Adjacent Grade

The highest natural elevation of the ground surface prior to construction next to the proposed foundation of a structure.

Historic Structure

Any structure that is:

- (a) Listed individually in the National Register of Historic Places (a listing maintained by the Department of Interior) or preliminarily determined by the Secretary of the Interior as meeting the requirements for individual listing on the National Register;
- (b) Certified or preliminarily determined by the Secretary of the Interior as contributing to the historical significance of a registered historic district or a district preliminarily determined by the Secretary to qualify as a registered historic district
- (c) Individually listed on a state inventory of historic places in states with historic preservation programs which have been approved by the Secretary of the Interior; or,
- (d) Individually listed on a local inventory of historic places in communities with historic preservation programs that have been certified either:
 - (i) By an approved state program as determined by the Secretary of the Interior; or,
 - (ii) Directly by the Secretary of Interior in states without approved programs.

Licensed Manufactured Home Dealer

A business licensed to sell Manufactured Homes in the state of WV as set forth in the WV state code.

Licensed Manufactured Home Installer

A contractor licensed to install Manufactured Homes in WV as set forth in the WV State Code.

Licensed Professional Surveyor

Any person licensed by the WV state board of examiners of land surveyors to engage in the practice of land surveying as defined in WV state code.

Lowest Floor

The lowest floor of the lowest enclosed area (including basement). An unfinished enclosure constructed with flood resistant materials as defined in FEMA Technical Bulletin 2-93 (FIA-TB-2) and usable solely for parking of vehicles, building access or storage in an area other than a basement area is not considered a building's lowest floor; Provided, that such enclosure is not built so as to render the structure in violation of the applicable non-elevation design requirements of this ordinance.

Manufactured Home

A structure, transportable in one or more sections, which is built on a permanent chassis and is designed for use with or without a permanent foundation when connected to the required utilities. The term "manufactured home" does not include a "recreational vehicle".

New Construction

Structures for which the Start of Construction as herein defined commenced on or after September 04, 1986 and including any subsequent improvements to such structures.

One-Hundred (100) Year Flood

A flood that has one chance in one-hundred or a one percent chance of being equaled or exceeded in any given year.

Permit Officer

The Permit Officer shall be the City of Buckhannon Zoning Officer unless otherwise specified by City Council.

Person

Any individual or group of individuals, corporation, partnership, association or other entity, including State and local governments and agencies.

Practice of Engineering

Any service or creative work, as described in WV state code Article 13, the adequate performance of which requires engineering education, training and experience in the application of special knowledge of the mathematical, physical and engineering sciences to such services or creative work as consultation, investigation, evaluation, planning and design of engineering works and systems; planning the use of land and water; teaching of advanced engineering subjects, engineering surveys and studies; and the review of construction for the purpose of assuring compliance with drawings and specifications any of which embraces such services or work, either public or private, in connection with any utilities, structures, buildings, machines, equipment, processes, work systems, projects and industrial or consumer products or equipment of a mechanical, electrical, hydraulic, pneumatic or thermal nature, insofar as they involve safeguarding life, health or property, and including such other professional services as may be necessary to the planning, progress and completion of any engineering services. Engineering surveys include all survey activities required to support the sound conception, planning, design, construction, maintenance and operation of engineered projects.

Any person who practices any branch of the profession of engineering or who, by verbal claim, sign, advertisement, letterhead, card or in any other way represents himself or herself to be a registered professional engineer, or by using another title implies that he or she is a registered professional engineer or that he or she is registered under WV state code, article 13 or who holds himself or herself out as able to perform, or who performs any engineering service or work or any other service designated by the practitioner which is recognized as engineering, is considered to practice or offer to practice engineering within the meaning and intent of WV state code article 13.

Principally Above Ground

Where at least 51 percent of the actual cash value of a structure, less land value, is above ground.

Recreational Vehicle

A vehicle which is:

- (a) built on a single chassis; (b) 400 square feet or less when measured at the largest horizontal projection; (c) designed to be self-propelled or permanently towable by a light duty truck; and (d) designed primarily not for use as a permanent dwelling but as temporary living quarters for recreational, camping, travel, or seasonal use.

Registered professional engineer

A person who has been duly registered or licensed as a registered professional engineer by the West Virginia state board of registration for professional engineers as required under WV state code article 13 et seq.

Remedy a Violation

To bring a structure or other development into compliance with the requirements of this ordinance, or, if full compliance is not possible, to reduce the adverse impacts of the non-compliance to the greatest extent feasible.

Reasonably Safe from Flooding

Means that during the base flood, water should not damage structures and any subsurface waters related to the base flood should not damage existing or proposed structures.

Special Flood Hazard Area:

The land in the floodplain subject to a one percent or greater chance of flooding in any given year. Special flood hazard areas are designated by the Federal Emergency Management Agency in Flood Insurance Studies and on Flood Insurance Rate Maps as Zones A, AE, AO, A1-30, and A99. The term includes areas shown on other flood hazard maps that are specifically listed or otherwise described in this ordinance.

Start of Construction *(The definition for start of construction is to be used only when calculating the starting time for expiration of a permit.)*

The date the permit was issued, including permits for substantial improvement or repair of substantial damage, provided the actual start of construction, repair, reconstruction, rehabilitation, addition, placement, or other improvement was within 180 days of the permit date. The actual start means either the first placement of permanent construction on a site, such as the pouring of slab or footings, the installation of piles, the construction of columns, or any work beyond initial excavation, or the placement of a manufactured home on a foundation. Although a permit must be obtained prior to beginning, permanent construction does not include land preparation, such as clearing, grading and filling, nor does it include the installation of streets and/or walkways, nor does it include excavation for a basement, footings, piers or foundations or the erection of temporary forms, nor does it include the installation on the property of accessory buildings, such as garages or sheds not occupied as dwelling units or not part of the main structure. For an alteration, the actual start of construction means the first alteration of any wall, ceiling, floor or other structural part of a building, whether or not that alteration affects the external dimensions of the building.

State Coordinating Office

The West Virginia Division of Homeland Security and Emergency Management

Stream

As defined in WV State Code 7-1-3U, any watercourse, whether natural or man-made, distinguishable by banks and a bed, regardless of their size, through which water flows continually or intermittently, regardless of its volume.

Structure

A walled and roofed building, including a gas or liquid storage tank that is principally above ground, as well as a manufactured home.

Substantial Damage

Damage of any origin sustained by a structure whereby the cost of restoring the structure to its before damage condition would equal or exceed 50 percent of the market value of the structure before the damage occurred. Substantial damage also means cumulative flood-related damages sustained by a structure on two separate occasions during a 10 year period for which the cost of repairs at the time of each flood event equals or exceeds 25 percent of the market value of the structure before the damage occurred. See "Substantial Improvement."

Substantial Improvement

Any repair, reconstruction, rehabilitation, addition, or other improvement of a structure, the cost of which equals or exceeds 50 percent of the market value of the structure before the Start of Construction of the improvement.

This term includes structures, which have incurred "substantial damage", as defined herein regardless of the actual repair work performed. The term does not, however, include any project for improvement of a structure to correct existing violation of state or local health, sanitary or safety code specifications which have been identified by the local code enforcement official and which are the minimum necessary to assure safe living conditions.

Historic structures undergoing repair or rehabilitation that would constitute a substantial improvement as defined above, must comply with all ordinance requirements that do not preclude the structure's continued designation as a historic structure. Documentation that a specific ordinance requirement will cause removal of the structure from the National Register of Historic Places or the State Inventory of Historic places must be obtained from the Secretary of the Interior or the State Historic Preservation Officer. Any exemption from ordinance requirements will be the minimum necessary to preserve the historic character and design of the structure.

For the purpose of this definition improvement is considered to occur when the first alteration of any wall, ceiling, floor or other structural part of the building commences whether or not that alteration affects the external dimensions of the structure.

Top of Bank

The lines depicted on the FIRM maps delineating each side of a stream indicate the top of bank. In the field a professional familiar with fluvial geomorphology should document the top of bank. When a professional is not employed the top of the bank will be considered to be the top of the first significant slope landward of the waters edge when it is followed by at least 50 feet of relatively flat land.

Violation

The failure of any structure or development to be fully compliant with all requirements of this ordinance. A structure or other development without the elevation certificate, other certifications, or other evidence of

compliance required by this ordinance is presumed to be in violation until such time as that documentation is provided.

ARTICLE III - ESTABLISHMENT OF THE FLOODPLAIN AREA:

Section 3.1 Identification

- A. The identified floodplain area shall be those areas of the City of Buckhannon which are subject to the one hundred (100) year flood, as shown on the Flood Insurance Rate Map (FIRM) and described in the Flood Insurance Study (FIS) prepared for the City of Buckhannon by the Federal Emergency Management Agency (FEMA) dated 09/29/2010 or the most recent revision thereof.
- B. The identified floodplain area shall also be those areas which have been identified as flood hazard areas by the City of Buckhannon by use of historic or other technical data and shown on the City of Buckhannon "Local Flood Hazards Map". These areas shall be designated as appropriate with the level of technical data described below and shall be managed accordingly.

Section 3.2 Descriptions of Floodplain Areas

The identified floodplain shall consist of the following four specific areas:

- A. The Floodway area (F1) shall be those areas identified as such in the FIS and as shown on the FIRM. The term shall also include floodway areas identified in studies required to be used in the approximate areas as discussed below.
- B. The Floodway Fringe area (F2) shall be those areas for which specific one hundred (100) year flood elevations have been provided in the FIS but which lie beyond the floodway area.
- C. The AE Area without Floodway (F3) shall be those areas identified as an AE Zone on the FIRM included in the FIS prepared by FEMA for which 100-year flood elevations have been provided but no Floodway has been delineated.
- D. The Approximated area (F4) shall be those areas identified as an A Zone on the FIRM included in the FIS prepared by FEMA and for which no one hundred (100) year flood elevations have been provided.

Section 3.3 Changes in Designation of Area

- 1. The delineation of the identified floodplain area may be revised by the City Council, City of Buckhannon where natural or man-made changes have occurred and/or more detailed studies conducted or undertaken by the U.S. Army Corps of Engineers, a River Basin Commission or other qualified agency or individual document the necessity for such changes. However, prior to any such change, approval must be obtained from the Federal Insurance Administration (FIA).
- 2. A community's base flood elevations may increase or decrease resulting from physical changes affecting flooding conditions. As soon as practicable but, not later than six months after the date such information becomes available, the community shall notify the NFIP Administrator of the changes by submitting technical or scientific data.

3. The City of Buckhannon may identify and regulate new flood hazard or ponding areas. These areas may be delineated on a "Local Flood Hazard Map using best available topographic data and locally derived information such as flood of record, historic high water marks and/or approximate study methodologies.

Section 3.4 Elevations Prevail

- A. If the lowest natural grade adjacent to proposed development within an identified flood hazard area is at or above the Base Flood Elevation specified in the Flood Insurance Study, the structure shall not be required to conform to the flood prevention design and construction standards or flood-related development codes in Article VI. Topographic data certified by a registered professional engineer or licensed professional surveyor shall be submitted in sufficient detail to allow a thorough review by the Permit Officer. The applicant is advised to apply for a Letter of Map Amendment (LOMA) from FEMA to have the Special Flood Hazard Area designation removed from the parcel or structure.
- B. If the lowest natural grade adjacent to proposed development is below the Base Flood Elevation specified in the Flood Insurance Study, the site shall be considered to be within the floodplain area and the proposed structure shall be required to conform to all appropriate provisions of this ordinance.

Section 3.5 Boundary Disputes

Should a dispute concerning any district boundary arise, an initial determination shall be made by the Permit Officer and any party aggrieved by this decision may appeal to the City Council, City of Buckhannon. The burden of proof shall be on the appellant/applicant.

ARTICLE IV - UTILIZATION OF THE FLOODPLAIN AREA:

Section 4.1 Floodway (F1)

- A. Within any floodway area (F1), no encroachments, including fill, new construction, substantial improvements, or other development shall be permitted unless it has been demonstrated through hydrologic and hydraulic analysis performed in accordance with standard engineering practice that the proposed encroachment will not result in any increase in the Base Flood Elevation.
- B. Because floodways present increased risk to human life and property due to their relatively faster and deeper flowing waters the Floodway shall be preserved to the greatest extent possible.
 1. New development shall not be permitted in the floodway where reasonable alternatives exist elsewhere. In addition to the requirements below the applicant shall demonstrate that there are no reasonable alternatives other than the floodway encroachment before a permit is issued.
 2. When the floodway is the only reasonable alternative the applicant shall demonstrate that the floodway encroachment is the minimum necessary to accomplish the project.
 3. All permitted uses, activities, and development shall be undertaken in strict compliance with the flood proofing and related provisions contained herein, and in all other applicable codes, ordinances and regulations.

Section 4.2 Floodway Fringe (F2)

- A. Within any Floodway Fringe area any development and/or use of land shall be permitted provided that all such uses, activities and/or development shall be undertaken in strict compliance with the flood-proofing and related provisions contained herein and in all other applicable codes, ordinances and regulations.

Section 4.3 AE Zone without Floodway

- A. Within any AE without Floodway area, no new construction or development shall be allowed unless it is demonstrated that the cumulative effect of the proposed development, when combined with all other existing and anticipated development, will not increase the elevation of the 100-year flood more than one (1) foot at any point. This requirement can be satisfied by utilization of the floodway area where determined.

Section 4.4 Approximated Floodplain (Zone A)

- A. Within any Approximated Floodplain Area
 - 1. The Permit Officer shall use elevation and floodway information from Federal, State, or other acceptable sources when available to determine the elevation above which development will be reasonably safe from flooding.
 - 2. When data from an acceptable source is not available, the Permit Officer shall review, or shall cause to be reviewed; all proposed development to determine 1. The amount being invested and 2. The specific flood risk at the site. The Permit Officer shall then require the applicant to determine the elevation above which the development will be reasonably safe from flooding using the techniques set forth in the City of Buckhannon's Approximate A zone administrative procedures. When hydrologic and hydraulic analyses are required, they shall only be undertaken by a registered professional engineer who shall certify that the methods used correctly reflect currently accepted technical concepts. The resultant study shall include a cover letter, signed by the responsible professional, providing a statement of findings in basic terms. In addition, studies, analyses, computations, etc. shall be submitted in sufficient detail to allow a thorough technical review by the Permit Officer.
 - 3. Any development and/or use of land shall be permitted provided that all such uses, activities and/or development shall be undertaken in strict compliance with the flood-proofing and related provisions contained herein and in all other applicable codes, ordinances and regulations.

Section 4.5 Alteration or relocation of a stream

- A. Whenever a developer intends to alter or relocate a stream within the Floodplain Area the developer shall notify in writing, by certified mail, the City of Buckhannon's Permit Officer, The State Coordinating Office, any adjacent communities and any adjacent property owners of all such intended activities prior to the alteration or relocation of the stream. Copies of all required notifications must be submitted to the Federal Insurance Administration. In addition prior to issuing the local permit the Permit Officer shall require copies of all necessary permits from those governmental agencies from which Federal or State Law requires approval. Contact information for State and Federal permitting authorities as well as addresses for required notification of appropriate County, State & Federal government agencies are contained in the City of Buckhannon's Stream Alteration administrative procedures.
- B. The developer shall also assure the City of Buckhannon in writing that the flood carrying capacity within the altered or relocated portion of the stream will be maintained. The Permit Officer may require the applicant

to demonstrate that the altered or relocated portion of stream will provide equal or greater conveyance than the original stream segment. If hydrologic and hydraulic analyses are required, they shall only be undertaken by a registered professional engineers, who shall certify that the methods used correctly reflect currently accepted technical concepts. The resultant study shall include a cover letter, signed by the responsible professional, providing a statement of findings in basic terms. In addition, studies, analyses, computations, etc. shall be submitted in sufficient detail to allow a thorough technical review by the Permit Officer.

- C. Alteration of a stream includes placement of culverts, bridges or other stream crossings. The Permit Officer may require the use of certain “best practice” techniques in the construction of bridges, culverts or stream crossings to prevent damage, loss of stream crossings and localized flooding caused by blockage. These techniques may include, but are not limited to, wing walls, trash grates or requiring openings to be of sufficient size to pass debris and/or anticipated future increases in flood heights.
- D. All new and replacement bridges, culverts and other stream crossings shall adhere to the relevant anchoring requirements contained in this ordinance.
- E. The developer is required to provide the community a legal agreement detailing all scheduled inspections and maintenance to be performed on altered or relocated watercourses including culverts, bridges and other stream crossings. It shall be the responsibility of the applicant to transfer this agreement to the new owner when the land associated with the watercourse alteration is transferred. A copy of all new agreements shall be provided to the Permit Officer. Failure to transfer the agreement and provide a signed copy to the Permit Officer shall subject the violator to the penalties set forth in Section 8.3 of this ordinance.
- F. The applicant must submit any maps, computations or other material required by the Federal Emergency Management Agency (FEMA) to revise the Flood Insurance Study and/or Flood Insurance Rate Maps, when notified by the Permit Officer, and must pay any fees or other costs assessed by FEMA for this purpose.

ARTICLE V - CRITERIA FOR BUILDING AND SITE PLAN APPROVAL:

Section 5.1 General

Permits are required in order to determine whether all new construction or substantial improvements are:

- A. Located in an identified Floodplain, Floodway or other flood hazard area.
- B. Designed (or modified) and adequately anchored to prevent flotation, collapse, or lateral movement of the structure resulting from hydrodynamic and hydrostatic loads, including the effects of buoyancy.
- C. Constructed with material and utility equipment resistant to flood damage as outlined in FEMA Technical Bulletin 2-93 (FIA-TB-2) or the most recent revision thereof.
- D. Constructed by methods and practices that minimize flood damage.
- E. Constructed with electrical, heating, ventilation, plumbing and air conditioning equipment and other service facilities that are designed and/or located so as to prevent water from entering or accumulating within the components during conditions of flooding.

- F. To comply with WV State Code §11-3-3a. concerning County Assessor “Building or real property improvement notice”
- G. Approved by County Health Department for Well, Septic and other permits to assure facilities are designed and located in compliance with the flood damage reduction requirements of this ordinance.

Section 5.2 Basic Format

The basic format of the permit shall include the following:

- A. Name and address of applicant.
- B. Name and address of owner of land on which proposed development is to occur.
- C. Names, addresses, and valid WV license numbers of all contractors working at the building site, or affidavits stating that work is being performed by individuals exempt from contractor licensing as set forth in Title 28, Series 2, section 3.9 (b) of the West Virginia Code of state regulations or the most recent revision thereof.
- D. A description of Site location sufficient to locate the project including tax map and parcel number and most recent deed book and page number.
- E. A standard site plan showing size and location of the proposed development as well as any existing buildings or structures. The site plan shall also show all adjacent roads and watercourses with direction of flow, the lowest adjacent grade to the proposed foundation and/or toe of fill, the Base Flood Elevation and the location of the floodway boundary when applicable.
- F. An acknowledgement that the applicant agrees to pay any and all fees associated with the permitting process as set forth in Section 7.9 hereof.
- G. An acknowledgement that the applicant agrees to allow authorized representatives of floodplain management programs access to the development to inspect for compliance.
- H. The contract required by WV Code of State Regulations, Title 28, Series 4, and all addendums to the contract(s) shall be presented to the Permit Officer for review within five (5) business days of contract signing. The community does not require and will not keep copies of the contracts or addendums. Failure to present contract or addendums for review shall void the permit. If a licensed contractor is not involved, or the work is of an aggregate value of less than ten thousand dollars including materials and labor, a brief written description of proposed work and the estimated value will suffice.

Section 5.3 Elevation and Flood Proofing Information

All applicants are encouraged to exceed the minimum elevation requirements contained herein. Flood insurance rates can be lowered significantly by increasing the elevation of the lowest floor above the freeboard height required by this ordinance.

Depending on the type of structure involved, the following information shall also be included in the application for work within the Floodplain Area:

A. For structures to be elevated 18 inches above the Base Flood Elevation:

1. A plan showing the size of the proposed structure and its relation to the lot where it is to be constructed.
2. A determination of elevations of the Base Flood, existing ground, proposed finished ground and lowest floor, certified by a registered professional engineer or licensed professional surveyor.
3. Plans showing the method of elevating the proposed structure including details of proposed fills, pile structures, retaining walls, foundations, erosion protection measures, etc. When required by the Permit Officer, a Registered Professional Engineer or Architect shall prepare these plans.
4. Plans showing the methods used to protect utilities (including sewer, water, telephone, electric, gas, etc.) from flooding to 18 inches above the Base Flood Elevation at the building site.
5. During the course of construction, as soon as the basic elements of the lowest floor are in place and before further vertical construction, it is highly recommended that the applicant check for error by obtaining elevation data completed by a registered professional engineer or licensed professional surveyor certifying the height of the lowest floor. If a mistake in elevation has been made this is the best time to correct the error.
6. A finished construction elevation certificate must be prepared by a licensed professional surveyor or others of demonstrated qualification. The elevation certificate must confirm that the structure in question together with attendant utilities is elevated in compliance with permit conditions.
7. A Nonconversion Agreement shall be signed by the applicant whenever the community determines that the area below the first floor could be converted to a non-conforming use (generally applies to enclosed areas below base flood elevation that are 5 ft. high or more). This agreement shall state:

(i) The area below Base Flood Elevation shall not be converted for use other than for parking, building access or for allowable storage as detailed in this ordinance.

(ii) The applicant agrees to notify prospective buyers of the existence of the non-conversion agreement. It shall be the responsibility of the applicant to transfer the agreement at closing to the new owner via notarized signature, a copy of all new agreements shall be provided to the Permit Officer. Failure to transfer the agreement and provide a signed copy to the Floodplain Administrator shall subject the violator to the penalties set forth in Section 8.3 of this ordinance.

B. For structures to be flood proofed to 18 inches above the Base Flood Elevation (nonresidential structures only):

All applicants are encouraged to exceed the minimum flood proofing requirements contained herein. Flood insurance rates can be lowered significantly by increasing the level of flood proofing above the height required by

this ordinance. In order to obtain an “elevation credited” flood insurance rate on dry flood proofed buildings, flood proofing must extend at least one foot above the Base Flood Elevation.

1. Plans showing details of all flood proofing measures, prepared by a registered professional engineer, showing the size of the proposed structure and its relation to the lot where it is to be constructed.
2. A determination of elevations of the Base Flood, existing ground, proposed finished ground, lowest floor, and flood proofing limits; certified by a registered professional engineer or licensed professional surveyor.
3. A Flood proofing Certificate, FEMA 81-65, as revised by FEMA, shall be prepared by the registered professional engineer who prepared the plans in (1) above, stating the structure in question, together with attendant utility and sanitary facilities is designed so that:

(i) The structure is water tight with walls substantially impermeable to the passage of water from the lowest structural element to 18 inches above the Base Flood Elevation.

(ii) The structure will withstand the hydrostatic, hydrodynamic, buoyant, impact, and other forces resulting from the flood depths, velocities, pressures, and other factors associated with the Base Flood.

C. For structures constructed of flood resistant materials – used solely for parking of vehicles, or storage, (Appurtenant Structures only)

1. A site plan prepared by a licensed professional surveyor or others of demonstrated qualifications showing elevation of existing ground, proposed finished ground and lowest floor. The plan shall also show details of proposed flood resistant materials usage and the size of the proposed structure and its relation to the lot where it is to be constructed. The location of the floodway boundary shall be represented on the plan when a floodway is present on the site.
2. An elevation certificate, based on finished construction, must be prepared by a licensed professional surveyor or others of demonstrated qualifications. This certificate or report must confirm that the structure in question, together with attendant utilities is designed so that:
 - (i) Flood resistant materials as detailed in FEMA Technical Bulletin 2-93 (FIA-TB-2) are used in the construction of the structure from the lowest structural element to 18 inches above the Base Flood Elevation and that all utilities are located at least 18 inches above the Base Flood Elevation.
 - (ii) Hydrostatic flood forces on exterior walls are equalized by allowing for automatic entry and exit of floodwaters. Designs for meeting this requirement must either be certified by a Registered Professional Engineer or Architect or meet or exceed the following minimum criteria:
 - a) A minimum of two openings having a total net area of not less than one square inch for every square foot of enclosed area subject to flooding shall be provided.
 - b) The bottom of all openings shall be no higher than one foot above grade.
 - c) Openings may be equipped with screens, louvers, valves or other coverings or devices provided that they permit the automatic entry and exit of floodwaters.

3. In addition, the applicant shall sign a Non-conversion Agreement and notify prospective buyers of the existence of the agreement. It shall be the responsibility of the applicant to transfer the Non-conversion Agreement to any new owner at closing via notarized signature. A signed copy of the transferred Non-conversion agreement shall be provided to the Permit Officer. Failure to transfer the agreement and provide a signed copy to the Permit Officer shall subject the violator to the penalties set forth in Section 8.3 of this ordinance.

Section 5.4 Site Plan Criteria

Site plans are required for all development, new construction and substantial improvements determined to be located in a mapped floodplain area and all proposed Subdivisions and Manufactured Home Parks. These proposals shall be reviewed by the Permit Officer to assure that they are consistent with the need to minimize flood damage.

The owner or developer shall submit a preliminary site plan to the Permit Officer that includes the following information:

- A. Name of registered professional engineer, licensed professional surveyor or other qualified person responsible for providing the information required in this section.
- B. A map showing the location of the proposed subdivision and/or development with respect to floodplain areas, proposed lot sites, and fills.
- C. Where the subdivision and/or development lies partially or completely in the floodplain areas, the plan map shall include detailed information giving the location and elevation of proposed roads, public utilities and building sites. All such maps shall also show contours at intervals of two (2) or five (5) feet depending upon the slope of the land and identify accurately the boundaries of the floodplain areas. A registered professional engineer or licensed professional surveyor must certify the site plan.
- D. All subdivision proposals and other proposed new developments which are proposed to take place either fully or partially within the Approximated Floodplain area (F4) and which are greater than ten (10) lots or two (2) acres, whichever is the lesser, shall include base flood elevation data and shall delineate a floodway
 1. When a Flood Insurance Study (FIS) is available from FEMA, the data contained in that study must be used to substantiate the base flood.
 2. If a FEMA Flood Insurance Study is not available the required data may be available from an authoritative source, such as the U.S. Army Corps of Engineers, U.S. Geological Survey, Natural Resource Conservation Service or state and local water resource department.
 3. If the required data is not available from other sources the applicant shall develop the technical data using detailed methodologies comparable to those contained in a Flood Insurance Study. This data shall be prepared and certified by a registered professional engineer, who shall certify that the methods used correctly reflect currently accepted technical concepts.
- E. Where the subdivision or other development site lies partially in the floodplain area and all proposed development including fill will take place on natural grade a significant vertical distance above the Approximated floodplain area (zone A) boundary depicted on the map, development of detailed Base Flood Elevation data may not be necessary. In these cases the site plan for the proposed development must show

contours at intervals of two (2) or five (5) feet depending on the slope, and clearly delineate the area to be developed and the location of the floodplain boundary as scaled from the FEMA map. A registered professional engineer, licensed professional surveyor or others of demonstrated qualifications must certify the site plan.

ARTICLE VI - SPECIFIC REQUIREMENTS:

Section 6.1 Design and Construction Standards

In order to prevent excessive damage to buildings, structures, and related utilities and facilities, the following restrictions apply to all development, subdivision proposals, manufactured home parks, new construction and to construction of substantial improvements, and the repair of substantial damage, to existing structures occurring in the Floodplain Area.

A. Basements and Lowest Floors

- a. Residential Structures - All new construction, relocation, substantial improvements, including repair of substantial damage, of residential structures must have the lowest floor, including basement, ductwork and utilities, elevated to 18 inches above the Base Flood Elevation.
- b. Non-residential Structures - All new construction, relocation, substantial improvements, including repair of substantial damage, of nonresidential structures must have the lowest floor, including basement, ductwork and utilities, elevated to 18 inches above the Base Flood Elevation; or, together with attendant utility and sanitary facilities, be designed so that the structure is water tight with walls substantially impermeable to the passage of water from the lowest structural element to 18 inches above the Base Flood Elevation.
- c. Openings - For all new construction, relocation, substantial improvements, and repair of substantial damage, those fully enclosed areas below the lowest floor that are usable solely for parking of vehicles, building access or storage in an area other than a basement and which are subject to flooding shall be designed to automatically equalize hydrostatic flood forces on exterior walls by allowing for entry and exit of floodwaters. Designs for meeting this requirement must either be certified by a Registered Professional Engineer or meet or exceed the following minimum criteria:
 - a) A minimum of two openings having a total net area of not less than one square inch for every square foot of enclosed area subject to flooding shall be provided.
 - b) The bottom of all openings shall be no higher than one foot above grade.
 - c) Openings may be equipped with screens, louvers, valves, or other coverings or devices provided that they permit the automatic entry and exit of floodwaters.
- d. A Non-conversion Agreement shall be signed by the applicant on all flood-proofed structures and any elevated structures when the community determines that the area below the first floor could be converted to a non-conforming use (generally applies to enclosed areas below base flood elevation that are 5 ft. high or more). This agreement shall state:
 1. The area below Base Flood Elevation shall not be converted for use other than for parking, building access or for allowable storage as detailed in this ordinance.

2. The applicant agrees to notify prospective buyers of the existence of the non-conversion agreement. It shall be the responsibility of the applicant to transfer the agreement at closing to the new owner via notarized signature, a copy of all new agreements shall be provided to the Permit Officer. Failure to transfer the agreement and provide a signed copy to the Permit Officer shall subject the violator to the penalties set forth in Section 8.3 of this ordinance.

B. Manufactured Home Placement

Certain unique characteristics of manufactured homes installed in flood hazard areas pose an elevated risk of substantial damage to property. Thus –

1. All manufactured homes to be sited within the identified flood hazard areas of the City of Buckhannon shall be installed by a contractor possessing a valid WV Manufactured Home Installer's license. The installer shall use an installation design engineered to withstand flood hazards specific to the particular home site. Manufactured homes to be placed or substantially improved within the flood hazard areas shall be installed in accordance with the following standards:
 - a. The lowest floor, ductwork and utilities including HVAC/heat pump shall be elevated 18 inches above the Base Flood Elevation
 - b. Elevation shall be on reinforced piers on a permanent foundation or other foundation elements of at least equivalent strength engineered for use in a flood hazard area. Installation designs incorporating dry stacked block piers shall not be used in flood hazard areas.
 - c. All manufactured homes shall be securely anchored to an adequately anchored foundation system in compliance with the requirements of 42 West Virginia Code of State Regulations, Series 19, Sections 10.1, 10.2, and 10b as authorized by West Virginia Code § 21-9-4. The anchoring shall be adequate to resist flotation, collapse, or lateral movement. Methods of anchoring may include but are not limited to the over-the-top and frame ties, attached to permanent foundation elements. Ground anchors may not be adequate to satisfy flood specific anchoring requirements. This requirement is in addition to applicable State and local anchoring requirements for resisting wind forces.
 - d. Permanently attached rigid skirts and perimeter wall skirts of brick or block must have openings; this type of skirting can collapse during floods and compromise supporting piers. The openings must be designed to automatically equalize hydrostatic flood forces by allowing for entry and exit of floodwaters. Designs for meeting this requirement must either be certified by a Registered Professional Engineer or meet or exceed the following minimum criteria:
 - (i) A minimum of two openings having a total net area of not less than one square inch for every square foot of enclosed area subject to flooding shall be provided.
 - (ii) The bottom of all openings shall be no higher than one foot above grade.
 - (iii) Openings may be equipped with screens, louvers, valves, or other coverings or devices provided that they permit the automatic entry and exit of floodwaters.
 - e. Any additions to a manufactured home shall be similarly anchored and vented.
2. The licensed WV Manufactured Home Installer placing the unit shall perform a site inspection and certify in writing that the manufactured home has been installed to the standards set forth in this ordinance.

C. Appurtenant Structures

1. Except as provided in subsection 2 below, appurtenant structures shall be located out of the floodplain area or elevated to 18 inches above the Base Flood Elevation.
2. Where appurtenant structures not connected to the principal structure are to be located on sites below the Base Flood Elevation, the following flood damage reduction provisions apply:
 - a. Structures shall be no more than 600 square feet in size and valued at less than \$10,000.00.
 - b. Floors shall be at or above grade on at least one side.
 - c. Structures shall be located, oriented and constructed to minimize flood damage.
 - d. Structures shall be designed (or modified) and adequately anchored to prevent flotation, collapse, or lateral movement of the structure resulting from hydrodynamic and hydrostatic loads, including the effects of buoyancy.
 - e. Flood resistant materials as detailed in FEMA Technical Bulletin 2-93 (FIA-TB-2) shall be used in the construction of the structure from the lowest structural element to 18 inches above the Base Flood Elevation.
 - f. Machinery, electric devices or appliances, and all utilities shall be located at least 18 inches above the Base Flood Elevation.
 - g. The venting requirements contained in Section 6.1 (A) are applicable and shall be strictly adhered to.
3. In addition, a Non-conversion Agreement shall be signed by the applicant stating that the use of the appurtenant structure or detached or attached garage shall not be changed from the use permitted, acknowledging that the structure may be subject to greater flood risk and that higher flood insurance premiums may be possible, and that a change in use may require full compliance with this ordinance. The applicant agrees to notify prospective buyers of the existence of this agreement. It shall be the responsibility of the applicant to transfer the agreement at closing to the new owner via notarized signature, a copy of all new agreements shall be provided to the Permit Officer. Failure to transfer the agreement and provide a signed copy to the Permit Officer shall subject the violator to the penalties set forth in Section 8.3 of this ordinance.

D. Recreational Vehicle Placement

1. Recreational vehicles to be placed within any floodplain area shall either:
 - a. Be on site for fewer than 180 consecutive days. Or,
 - b. Be fully licensed and ready for highway use. A recreational vehicle is ready for highway use if it is on its wheels or jacking system, is attached to the site only by quick disconnect utilities and security devices, and has no permanently attached additions. Or,
 - c. Be installed in accordance with the Manufactured Home Placement requirements and all other flood reduction requirements contained in this ordinance.

E. Fill

The City Council of the City of Buckhannon officially recognizes the beneficial functions the floodplain serves in storage and transportation of water during floods. Placement of fill in the floodplain area is discouraged and should be minimized.

No fill shall be permitted in the floodway.

All fill placed in other floodplain areas shall meet or exceed the following standards:

1. Fill shall be used only to the extent to which it does not adversely affect adjacent properties. The City of Buckhannon may require the applicant to demonstrate through engineering reports that proposed fill would not adversely affect adjacent properties. When required, Hydrologic and hydraulic analyses shall be undertaken only by professional engineers who shall certify that the technical methods used correctly reflect currently accepted technical concepts. The resultant study shall include a cover letter, signed and sealed by the responsible professional, providing a statement of findings in basic terms. In addition, studies, analyses, computations, etc., shall be submitted in sufficient detail to allow a thorough technical review by the City of Buckhannon. During permit review the community shall consider the following issues that have the potential to cause adverse impact to adjacent properties:
 - a. Unacceptable increases in flood heights.
 - b. Blocking drainage from adjacent property.
 - c. Deflection of floodwaters onto adjacent existing structures.
 - d. Increases to stream velocity initiating or exacerbating erosion problems.
 - e. Other unique site conditions may be considered when determining whether fill will cause adverse impact to adjacent property including, but not limited to, subsidence areas, karts topography, stream blockages, and steep topography adjacent to the channel.
2. Fill shall be used only to the extent to which it does not adversely affect the capacity of channels or floodways of any tributary to the main stream, drainage ditch, or any other drainage facility or system.
3. Filled site must be contoured to drain properly (avoid ponding)
4. Fill shall extend beyond a structure for a sufficient distance to provide acceptable access. For residential structures, fill shall extend laterally fifteen (15) feet beyond the building line from all points before the start of sloping required in following subsection. For nonresidential structures, fill shall be placed to provide access acceptable for intended use.
5. At grade access, with fill extending laterally fifteen (15) feet beyond the building line shall be provided to a minimum of twenty-five (25) percent of the perimeter of a nonresidential structure.
6. Fill shall consist of soil or rock material only. Sanitary landfills shall not be permitted; no trash or woody debris shall be buried on site.
7. Fill material shall be compacted to provide the necessary stability and resistance to erosion, scouring or settling. Fill compaction standards must be appropriate to proposed post fill use, particular attention is necessary when fill is being used to elevate a structure.
8. Fill slopes shall be no steeper than one (1) vertical on two (2) horizontal, unless substantiating data justifying steeper slopes are submitted to and approved by the Permit Officer.

9. Fill site and fill must be protected from erosion.
10. All applicants placing fill in a mapped flood hazard area must obtain a Conditional Letter of Map Revision (CLOMR) from FEMA when directed to do so by the Permit Officer before a permit can be issued. After fill is finished the applicant must convert the CLOMR to a Letter of Map Revision based on Fill (LOMR-F) before a certificate of compliance can be issued.
11. The applicant must submit any maps, computations or other material required by the Federal Emergency Management Agency (FEMA) to revise the Flood Insurance Study and/or Flood Insurance Rate Maps, when notified by the Permit Officer, and must pay any fees or other costs assessed by FEMA for this purpose.

F. Placement of Structures and other development

1. All structures and other development shall be constructed and placed on the lot so as to offer the minimum obstruction to the flow of water and shall be designed to have a minimum obstruction effect upon the flow and height of floodwater.
 - i. Whenever possible, structures shall be constructed with the longitudinal axis parallel to the direction of flood flow and,
 - ii. So far as practicable, structures shall be placed approximately on the same flood-flow lines as those of adjoining structures.

G. Anchoring

1. All structures and other development including stream crossings shall be firmly anchored in accordance with accepted engineering practices to prevent flotation, collapse, and lateral movement, thus reducing the threat to life and property and decreasing the possibility of the blockage of bridge openings and other restricted sections of the watercourse.
2. All air ducts, large pipes, and storage tanks located at or below the Base Flood Elevation shall be firmly anchored to resist flotation.

H. Flood Protection Setback

1. A Flood Protection Setback equal to twice the width of the watercourse channel measuring from the top of one bank to the top of the opposite bank or 50 feet, whichever is less, shall be maintained from the top of the banks of all watercourses. To reduce erosion, natural vegetation shall be maintained in this area. Where natural vegetation does not exist along the watercourse and conditions for replanting are suitable, high priority shall be given to planting vegetation in the setback area to stabilize banks and enhance aquatic resources.
2. Necessary public works and temporary construction may be exempted from this subsection.

3. The Permit Officer may consider an appeal to the Flood Protection Setback requirement if the applicant demonstrates that it is impossible to allow any development without encroachment into the Flood Protection Setback area. The appeal conditions shall be the minimum necessary and shall be made only after due consideration is given to varying other siting standards, such as side, front and back lot line setbacks.

I. Storage

1. No materials that are buoyant, flammable, explosive, or in times of flooding could be injurious to human, animal or plant life, shall be stored below Base Flood Elevation.
2. Storage of other material or equipment may be allowed if not subject to major damage by floods and firmly anchored to prevent flotation or readily removable from the area within the time available after flood warning.
3. Due to the potential of masking the natural elevation and making it more difficult to enforce this ordinance, material that resembles "fill" material shall not be considered "storage" material for purposes of this subsection.

J. Utility and Facility Requirements

- A. All new or replacement water systems whether public or private, shall be designed to minimize or eliminate infiltration of floodwaters into the systems.
- B. All new or replacement sanitary disposal systems, whether public or private, shall be designed to minimize or eliminate infiltration of floodwaters into the systems and discharges from the systems into floodwaters.
- C. All other new or replacement public and/or private utilities and facilities shall be located and constructed to minimize or eliminate flood damage.
- D. Onsite waste disposal systems shall be located to avoid impairment to them or contamination from them during flooding.

K. Drainage

Adequate drainage shall be provided to reduce exposure to flood hazard.

L. Backflow Preventers

Back flow prevention valves should be used for all enclosed structures with sewage or drainage facilities located in the floodplain.

ARTICLE VII – ADMINISTRATION:

Designation of Permit Officer:

The Zoning Officer is hereby appointed as Permit Officer to administer and implement this local law by granting or denying floodplain development permits in accordance with its provisions.

Section 7.1 Development Permits and Site Plan Approvals Required

It shall be unlawful for any contractor, person, partnership, business, or corporation to undertake or cause to be undertaken, any development or the new construction, substantial improvement, repair of substantial damage, the placement or relocation of any structure (including manufactured homes) within the City of Buckhannon unless a permit application and standard site plan has been completed, and a permit has been obtained from the Permit Officer. In addition, where land that is either partially or fully in the regulatory floodplain is to be subdivided, utilized for a manufactured home park or subdivision or otherwise developed, a detailed site plan must be submitted to, and approved by, the Permit Officer prior to any development.

Section 7.2 Approval of Permits and Plans

1. The Permit Officer shall review, or shall cause to be reviewed; all permit applications and plans in order to determine whether proposed building sites are reasonably safe from flooding.
2. All permits and plans shall be approved only after it has been determined that the proposed work to be undertaken will be in conformance with the requirements of the state and all other applicable codes and ordinances.
3. The Permit Officer shall not issue a permit to any person who does not possess a valid contractor's license when a contractor's license is required by West Virginia State Code §21-11-10.
4. The Permit Officer, before issuance of the permit, shall require the applicant to furnish satisfactory proof that such person is duly licensed as a contractor under the provisions of West Virginia State Code. If the applicant is not licensed a written affidavit that such person is not subject to licensure as a contractor or subcontractor as defined in §21-11-3 shall be provided to the Permit Officer and placed in the permit file.
5. The Permit Officer shall require copies of all necessary permits from those governmental agencies from which Federal or State Law requires approval.
6. The Permit Officer shall provide a copy of all permits to the County Assessor as required by West Virginia State Code 11-3-3A.
7. The Permit Officer shall provide a copy of all permits for new structures to the County E-911 addressing coordinator.
8. The County E-911 addressing coordinator shall provide a copy of all requests for addresses for new structures to the County Permit Officer.
9. The City of Buckhannon shall provide sufficient space to allow the Permit Officer to keep on file in perpetuity, in a location safe from natural hazards, all information collected during the course of the administration of this ordinance.

Section 7.3 Application Procedures

Application for a permit and/or site plan approvals shall be made, in writing, on the forms supplied by the City of Buckhannon and shall include all information stipulated under Article V of this ordinance.

Section 7.4 Changes

After the issuance of a permit or site plan approval by the Permit Officer, no changes of any kind shall be made to the application, permit, or any of the plans, specification or other documents submitted with the application without the written consent or approval of the Permit Officer.

Section 7.5 Permit Placards

- A. The Permit Officer shall issue a permit placard, which shall be prominently displayed on the premises during the time construction is in progress. This placard shall show the number of the permit, the date of its issuance and be signed by the Permit Officer.

Section 7.6 Start of Construction

Work on the proposed development shall begin within 180 days after the date of issuance of the permit or the permit shall expire unless a time extension is granted, in writing, by the Permit Officer. All work on the proposed development must be completed within 18 months of permit issuance, at which time the permit shall expire, unless a time extension is granted in writing by the Permit Officer. The request for a time extension shall be in writing and shall state the reasons for the extension. When considering an extension, the Permit Officer shall consider the following criteria:

- 1) Has the developer diligently pursued the completion of the proposed development during the 18 months?
- 2) Will the granting of the extension be detrimental to public safety, health, or welfare or injurious to other property?

Section 7.7 Stop Work Orders, Inspections and Revocations

A. Stop-Work Orders

1. The Permit Officer shall issue, or cause to be issued, a "Stop Work Order Notice" for any development found ongoing without having obtained a permit. Disregard of a stop work order shall subject the violator to the penalties described in Section 8.3 of this local law.
2. The Permit Officer shall issue, or cause to be issued, a "Stop Work Order Notice" for any development found non-compliant with the provisions of this law and/or the conditions of the permit. Disregard of a stop work order shall subject the violator to the penalties described in Section 8.3 of this local law.

B. Inspections and Revocations

- A. During the construction period, the Permit Officer or other authorized official may inspect the premises to determine that the work is progressing in compliance with the information provided on the permit application and with all applicable laws and ordinances.
- B. If the Permit Officer discovers that the work does not comply with the permit application or any applicable laws and ordinances or that there has been false statement or misrepresentation by any applicant, the Permit Officer shall issue a "Stop Work Order Notice" revoke the permit and request a temporary injunction.

- C. The Permit Officer or other authorized official may inspect any development covered by this or previous ordinance to determine whether any portion of the development has been altered to be in non-compliance with the requirements of this ordinance.

Section 7.8 Certificate of Compliance

- A. In areas of flood hazard it shall be unlawful to occupy, or to permit the use or occupancy, of any building or premises, or both, or part thereof hereafter created, erected, installed, changed, converted or wholly or partly altered or enlarged in its use or structure until a certificate of compliance has been issued by the Local Permit Officer stating that the building or land conforms to the requirements of this local law. Occupying or using a building or premises in violation of this section shall subject the violator to the penalties described in Section 8.3 of this local law.
- B. In areas of flood hazard it shall be unlawful to inspect and approve a permanent utility connection to any building or premises, or both, or part thereof hereafter created, erected, installed or rebuilt until the inspector is in possession of a copy of the certificate of compliance issued by the Local Permit Officer stating that the particular development being inspected conforms to the requirements of this local law. Inspection and approval of utilities in violation of this section shall subject the violator to the penalties described in Section 8.3 of this local law.
- C. In areas of flood hazard it shall be unlawful to install a permanent utility connection to any building or premises, or both, or part thereof hereafter created, erected, installed or rebuilt until a certificate of compliance has been issued by the Local Permit Officer stating that the development conforms to the requirements of this local law. Installation of utilities in violation of this section shall subject the violator to the penalties described in Section 8.3 of this local law.
- D. A certificate of compliance shall be issued by the Local Administrator upon satisfactory completion of all development in areas of special flood hazard.
- E. Issuance of the certificate shall be based upon the inspections conducted as prescribed in this ordinance or local administrative procedures, and any finished construction elevation certificate, hydraulic data, flood proofing certificate, or encroachment analyses which may have been required as a condition of permit approval.

Section 7.9 Fees

- A. Application for a permit for proposed development determined to be occurring in a flood hazard area regulated by this ordinance shall be accompanied by an additional fee, payable to the City of Buckhannon based upon a set schedule approved by the City of Buckhannon using the estimated value of the proposed construction as determined by the Permit Officer.
- B. In addition, the applicant shall be responsible for reimbursing the City of Buckhannon for any additional costs for services necessary for review and/or inspection of proposed development. Services include, but are not limited to, professional engineering and surveying. The Permit Officer may require a deposit towards these additional costs. Additional costs may include reimbursement for contracted services.
- C. Due to the increased cost of processing, when any work for which a permit is required by this ordinance is started or proceeded with prior to obtaining a permit the fees above specified shall be doubled. The additional fee is intended to partially reimburse the City for the additional cost of processing permits for

work already underway. To more fully recover this cost the fees above shall be tripled for every subsequent occurrence by the same person. Payment of the increased fee shall not relieve any person from complying fully with the requirements of this ordinance in the execution of the work or from other penalties prescribed herein.

ARTICLE VIII - APPEALS AND PENALTIES:

Section 8.1 Appeals

1. Whenever any person is aggrieved by a decision of the Permit Officer with respect to the provision of this ordinance, it is the right of that person to appeal to the City Council of the City of Buckhannon which shall be known as the Appeals Board. Such appeal must be filed with the City Council of the City of Buckhannon, in writing, within thirty (30) days after notification of the decision. Upon receipt of such appeal, the Appeals Board shall set a time and place not less than (ten (10) nor more than (sixty (60) days for the purpose of hearing the appeal. Notice of the time and place of the hearing shall be given to all parties at which time they may appear and be heard. The determination by the Appeals Board shall be final in all cases.

Section 8.2 Appeal Review Criteria

- A. All appeals contesting only the permit fee, the cumulative substantial damage requirement, the flood protection setback requirement, or the freeboard requirements, may be handled at the discretion of the Appeals Board.
- B. All decisions on appeals to all other provisions of this ordinance shall adhere to the following criteria:
 - 1. Affirmative decisions shall only be issued by the Appeals Board upon (i) a showing of good and sufficient cause, (ii) a determination that failure to grant the appeal would result in exceptional hardship to the applicant, and (iii) a determination that the granting of an appeal will not result in increased flood heights, additional threats to public safety, extraordinary public expense, create nuisances, cause fraud on or victimization of the public or conflict with existing local laws or ordinance.
 - 2. An affirmative decision shall be issued only upon determination that it is the minimum necessary, considering the flood hazard, to afford relief. Financial hardship, as a sole criterion, shall not be considered sufficient justification to grant an appeal.
 - 3. An affirmative decision shall be issued for the repair or rehabilitation of historic structures upon a determination that the proposed repair or rehabilitation will not preclude the structure's continued designation as a historic structure and the variance is the minimum necessary to preserve the historic character and design of the structure.
 - 4. The Appeals Board shall notify the applicant in writing over the signature of a community official that (i) the issuance of a decision to allow construction of a structure below the Base Flood Elevation will result in increased premium rates for flood insurance, (ii) such construction below the Base Flood Elevation increases risk to life and property. Such notifications shall be maintained with a record of all decisions as required in paragraph (4) of this section; and
 - 5. The Appeals Board shall (i) maintain a record of all decisions including justification for their issuance, and (ii) report such decisions issued in its biannual report to the Federal Insurance Administration.

6. An affirmative decision shall not be granted for any construction, development, use or activity within any floodway area that would cause any increase in the Base Flood Elevation.

Section 8.3 Penalties

Any person who fails to comply with any or all of the requirements or provisions of this ordinance or direction of the Permit Officer, or any other authorized employee of the community, shall be unlawful and shall be referred to the Prosecuting Attorney who shall expeditiously prosecute all such violators. A violator shall, upon conviction, pay a fine to the City of Buckhannon of not less than fifty dollars (\$50.00) or more than five hundred dollars (\$500.00) plus cost of prosecution. In default of such payment such person shall be imprisoned for a period not to exceed 10 days. Each day during which any violation of this ordinance continues shall constitute a separate offense. In addition to the above penalties, all other actions are hereby reserved including an action in equity for the proper enforcement of this ordinance. The imposition of a fine or penalty for any violation of, or non-compliance with, this ordinance shall not excuse the violation or non-compliance with the ordinance or permit it to continue; and all such persons shall be required to correct or remedy such violations or non-compliance within a reasonable time. Any structure constructed, reconstructed, enlarged, altered or relocated in non-compliance with this ordinance may be declared by the City Council of the City of Buckhannon to be a public nuisance and abatable as such.

ARTICLE IX – GOVERNMENT ACTIONS:

Section 9.1 – Municipal Annexation

- A. The County floodplain ordinance in effect on the date of annexation shall remain in effect and shall be enforced by the municipality for all annexed areas until the municipality adopts and enforces an ordinance which meets the requirements for participation in the National Flood Insurance Program.
- B. Municipalities with existing floodplain ordinances shall pass a resolution acknowledging and accepting responsibility for enforcing floodplain ordinance standards prior to annexation of any area containing identified flood hazards.
- C. All plats or maps of annexation shall show the floodplain boundaries, Base Flood Elevation and location of the floodway where determined.
- D. In accordance with the Code of Federal Regulations, Title 44 Subpart (B) Section 59.22 (a) (9) (v) all NFIP participating communities must notify the Federal Insurance Administration in writing whenever the boundaries of the community have been modified by annexation or the community has otherwise assumed or no longer has authority to adopt and enforce flood plain management regulations for a particular area. In order that all Flood Insurance Rate Maps accurately represent the community's boundaries, a copy of a map of the community suitable for reproduction, clearly delineating the new corporate limits or new area for which the community has assumed or relinquished flood plain management regulatory authority must be included with the notification.
- E. NFIP participating communities must notify the State Coordinating Office in writing whenever the boundaries of the community have been modified by annexation or the community has otherwise assumed or no longer has authority to adopt and enforce flood plain management regulations for a particular area. A copy of a map of the community suitable for reproduction, clearly delineating the new corporate limits or new area for which the community has assumed or relinquished flood plain management regulatory authority must be included with the notification.

Section 9.2 – Permits for Government Entities.

- A. Unless specifically exempted by law, all public utilities and Municipal, County, State and Federal entities are required to comply with this ordinance and obtain all necessary permits. Any entity claiming to be exempt from the requirements of this ordinance must provide a written statement setting forth the rationale for exemption. In addition the entity claiming exemption shall provide copies of all relevant legal documentation demonstrating the exemption.

ARTICLE X - SEVERABILITY AND MUNICIPAL LIABILITY:

Section 10.1 Severability

If any section, subsection, paragraph, sentence, clause, or phrase of this ordinance shall be declared invalid for any reason whatever, such decision shall not affect the remaining portions of this ordinance which shall remain in full force and effect and for this purpose the provisions of this ordinance are hereby declared to be severable.

Section 10.2 Liability

The granting of a permit or approval of a subdivision or development plan in an identified flood-prone area, shall not constitute a representation, guarantee, or warranty of any kind by the City of Buckhannon or by any official or employee thereof of the practicability or safety of the proposed use, and shall create no liability upon the City of Buckhannon. All applicants proposing development in or near a flood hazard area are urged to locate development as far away from, and as high above, all flooding sources as possible.

ARTICLE XI – 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., November 7, 2010.

FIRST READING: September 16, 2010

SECOND READING, PASSAGE & ADOPTION: October 7, 2010

Kenneth T. Davidson, Mayor

CERTIFICATE OF ENACTMENT

I, Richard C. Clemens, City Recorder, do hereby certify that the foregoing Ordinance No. 353 was lawfully ordained and enacted by the Council of the City of Buckhannon at a regular session of the said Council assembled on October 7, 2010.

ORDINANCE NO. 382 OF THE CITY OF BUCKHANNON, AN ORDINANCE PROVIDING FOR THE ANNEXATION OF THREE (3) TRACTS OF LAND AGGREGATING APPROXIMATELY 5.4 ACRES, MORE OR LESS, SITUATED ALONG OR NEAR THE EASTERN SIDE OF THE BRUSHY FORK ROAD, BEING UPSHUR COUNTY ROUTE NO. 7 IN BUCKHANNON DISTRICT OF UPSHUR COUNTY, ALL INTO THE CORPORATE LIMITS OF THE CITY OF BUCKHANNON PURSUANT TO THE ANNEXATION BY PETITION METHOD AS ESTABLISHED BY CHAPTER 8, ARTICLE 6, SECTION 4 OF THE WEST VIRGINIA CODE

WHEREAS, Chapter 8, Article 6, Section 4 of the West Virginia Code, as amended, provides for the governing body of a municipality to annex additional territory into its corporate limits by ordinance upon a majority of the qualified voters and freeholders of the proposed additional territory filing a petition to have their real estate annexed; and,

WHEREAS, three (3) tracts of land aggregating approximately 5.4 acres, more or have been identified for annexation into the corporate limits; and,

WHEREAS, it appears that all of the qualified voters and freeholders, i.e., owners, of the three (3) tracts of land have duly petitioned the City of Buckhannon to have their real estate annexed into the City of Buckhannon's corporate limits pursuant to Chapter 8, Article 6, Section 4 of the West Virginia Code; and,

WHEREAS, Chapter 8, Article 6, Section 4(e) specifically authorizes but also limits one signature on a petition per parcel of property; and,

WHEREAS, all of the qualified voters and the single freeholder, being the owner of the three (3) tracts of land sought to be annexed, have filed with the City of Buckhannon, their qualified voter or freeholder petitions requesting the subject real estate to be annexed into the corporate limits of Buckhannon; and,

WHEREAS, the City of Buckhannon has enumerated the total number and verified the identities of the eligible petitioners in the manner required pursuant to Chapter 8, Article 6, Section 4(e) of the West Virginia Code, said information being fully contained and set forth within that certain chart appearing hereinafter specifically listing the qualified voters and freeholders and their real estate interests by tax map and parcel number, and quantity of acreage leased or alternatively owned; and,

WHEREAS, a map accurately showing and depicting the real estate proposed for annexation by the petition method, all as is established pursuant to Chapter 8, Article 6, Section 4 of the West

Virginia Code, has been prepared, a copy of which is attached hereto and is expressly made a part hereof; and,

WHEREAS, the Council of the City of Buckhannon is now satisfied that the petitions now herein filed are sufficient in every respect; and,

WHEREAS, the Council now desires to approve in every respect the subject request for annexation; and,

WHEREAS, the Council further desires to authorize the Mayor of the City of Buckhannon upon final passage and adoption of this Ordinance to execute and then deliver an appropriate certificate as described pursuant to Chapter 8, Article 6, Section 4(g) of the West Virginia Code unto the Upshur County Commission to then fully effect said annexation pursuant to State statute.

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

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

(1) The City of Buckhannon has received two petitions for annexation from all qualified voters and freeholders of three (3) tracts of land, both of said petitioners being qualified voters and/or freeholders aggregately owning or leasing approximately 5.4 acres of land, more or less, situated along or near the eastern side of the Brushy Fork Road, being Upshur County Route No. 7, all in Buckhannon District, Upshur County, West Virginia;

(2) Both of the eligible petitioners appear to be qualified voters or freeholders as defined and otherwise referenced in Chapter 8, Article 6, Section 4 of the West Virginia Code, as amended;

(3) The three (3) tracts of land aggregating approximately 5.4 acres, more or less, and now proposed for annexation by petition with corresponding tax map and parcel numbers, and specific quantity of acreage, is presently leased as, or alternatively titled and assessed for real estate taxation purposes, as follows:

(A) QUALIFIED VOTER (LESSEE) PETITION:

(1) Auto Disposal Systems, Inc. (5-F, p/o parcel 34.4 & p/o 34.11)

4.94 acres

(B) FREEHOLDER (OWNER) PETITION:

(1) Delta West, L.L.C. (5-F, p/o parcel 34.4 & p/o 34.11)	4. 94 acres (same as (A)(1))
(2) Delta West, L.L.C. (5-F, p/o parcel 34.11)	0.273 of an acre
(3) Delta West, L.L.C. (5-F, p/o parcel parcel 34.4)	<u>0.187 of an acre</u>
Total acreage of 3 tracts	5.4 acres

(4) A map accurately showing and depicting the three (3) tracts aggregating approximately 5.4 acres, more or less, proposed for annexation has been prepared, and a copy is attached hereto and expressly made a part of this Ordinance;

(5) The Council of the City of Buckhannon is now satisfied that the petitions herein filed are sufficient in every respect and conform to the requirements of Chapter 8, Article 6, Section 4 of the West Virginia Code, as amended; and,

(6) The Council now approves in every respect the subject request for annexation and expressly authorizes the Mayor of the City of Buckhannon to execute and then deliver an appropriate certificate as described pursuant to Chapter 8, Article 6, Section 4(g) of the West Virginia Code unto the Upshur County Commission to fully effect this annexation, immediately upon passage and adoption of this Ordinance.

ARTICLE II - 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., August 17, 2014.

FIRST READING: July 3, 2014

SECOND READING, PASSAGE AND ADOPTION: July 17, 2014

Kenneth T. Davidson, Mayor

CERTIFICATE OF ENACTMENT

I, Richard W. Edwards, City Recorder, do hereby certify that the foregoing Ordinance No. 382 was lawfully ordained and enacted by the Council of the City of Buckhannon at a regular session of the said Council assembled on July 17, 2014.

Richard W. Edwards, City Recorder

ORDINANCE NO. 384 OF THE CITY OF BUCKHANNON, AN ORDINANCE
AMENDING ZONING ORDINANCE NO. 244 OF THE CITY OF BUCKHANNON,
BY (A) ESTABLISHING A NEW ZONING DISTRICT HEREFTER
TO BE KNOWN AND REFERRED TO AS "MIL", i.e., MILITARY DISTRICT; AND
(B) REZONING ALL OF THE REAL ESTATE, i.e., 63.30 ACRES, ANNEXED INTO THE
CORPORATE LIMITS OF BUCKHANNON IN JANUARY OF 2013 FROM "R-1", SINGLE FAMILY
RESIDENTIAL DISTRICT TO "MIL," i.e., MILITARY DISTRICT

WHEREAS, pursuant to Section 615 of Ordinance No. 244 of the City of Buckhannon, real estate annexed into the City is classified as "R-1", Single Family Residence District, until such annexed areas may be otherwise zoned; and,

WHEREAS, on January 24, 2013, the County Commission of Upshur County, West Virginia, by Order duly entered in Upshur County Commission Law Order Book 83 at page 477, approved the application of The City of Buckhannon to annex into the City's corporate limits 63.30 acres of land, primarily being the real estate whereon the new West Virginia National Guard Readiness Center has been constructed on the western side of the Brushy Fork Road being Upshur County Route No. 7, all of which real estate is thus zoned "R-1", Single Family Residence District; and,

WHEREAS, pursuant to a properly published legal notice, a public meeting of the Planning Commission of the City of Buckhannon was held on July 28, 2014, to specifically consider possible amendments to Ordinance No. 244 insofar as (a) rezoning of the aforesaid 63.30 acres of land from "R-1," i.e., Single Family Residence District, to a new zoning district, i.e., "MIL," the Military district; and (b) establishing the "MIL," Military district; and,

WHEREAS, as a result of the aforesaid public meeting, the said Planning Commission voted to recommend that the City Council amend Ordinance No. 244 whereby a new zoning district be established, specifically "MIL", Military District, with certain defined principal and accessory uses respecting the new Military district; and,

WHEREAS, the Council of the City of Buckhannon now deems it to be reasonable and appropriate to adopt all of the foregoing recommendations of the Planning Commission as are set forth within the Commission's report emanating from the July 28, 2014 meeting, and further in the manner as is depicted and set forth upon the attached map.

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

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

(1) That the Council of the City of Buckhannon does hereby adopt all of the recommendations of the Planning Commission as are set forth within the Commission's report dated August 1, 2014, and as emanating from the July 28, 2014 meeting, and in so doing does specifically hereby amend Ordinance No. 244 of the City of Buckhannon, as hereinafter set forth.

(2) That the geographical area depicted and set forth upon the attached map, i.e., the 63.30 acres, and more particularly hereinafter described and referenced shall henceforth be zoned as the Military district.

ARTICLE II – GENERAL DESCRIPTION OF REAL ESTATE SITUATED WITHIN MILITARY DISTRICT:

All of the 63.30 acres of land that were annexed into Buckhannon's corporate limits pursuant to the January 24, 2013 Order of the Upshur County Commission.

ARTICLE III – PERMITTED PRINCIPAL AND ACCESSORY USES IN MILITARY DISTRICT:

A. Section 301 and any and all other appropriate provisions of Ordinance No. 244 are hereby amended to reflect the establishment of a new zoning district hereafter to be known and referred to as "MIL," i.e., Military District, which Military District shall be deemed as incorporated by amendment to Ordinance No. 244 as "SECTION 516. "MIL," MILITARY DISTRICT";

B. Subsection "A." of the new Section 516 is hereby established as follows:

"A. THE FOLLOWING BUILDINGS AND USES SHALL BE PERMITTED IN

"MIL," i.e., MILITARY DISTRICT:

1. Any and all military related uses, including but not limited to the conducting of training exercises, equipment use, deployment, and storage; instructional facilities such as classrooms, military meeting and conference rooms, and administrative offices, libraries, and audio and video media centers;
2. Any and all vehicular and equipment use, deployment, maintenance, and storage, including but not limited to artillery tractors, combat vehicles, command vehicles, improvised military vehicles, military engineering vehicles, military light utility vehicles, military recovery vehicles, reconnaissance vehicles, military trailers, and tanks;
3. Any and all military, residential facilities typically associated with armory operations, including but not limited to a military barracks or dormitory;

4. Any and all other ancillary uses permitted by the military, regulating agencies of either the United States of America or the State of West Virginia, or traditional to military functions or operations;

5. Any and all facilities for operating a conference center open to the public for meetings and receptions, including but not limited to the preparation and serving of meals and beverages, including alcoholic beverages, and outdoor facilities for any and all athletic and recreational purposes;

6. Any and all facilities associated with the delivery of technology, data, telephony, television, and radio, including but not limited to towers, poles, conduit, and coaxial or fiber optic lines whether installed above or below ground;

7. Any and all parking lots.

C. Subsection "B." of the new Section 516 is hereby established as follows:

"B. THE FOLLOWING ACCESSORY USES AND BUILDINGS SHALL BE PERMITTED IN "MIL," i.e., MILITARY DISTRICT:

1. Any accessory use relating to a legal use of the lot;

2. All reasonable and appropriate building and facility identification signs are permitted, and all reasonable and appropriate directional signs are permitted.

ARTICLE IV –LIMITATIONS IN MILITARY DISTRICT:

(A) Notwithstanding the broad uses herein authorized within the Military district, many general limitations, restrictions, or prohibitions of Ordinance No. 244 continue to apply. Specifically, Sections 601 (Storage), 602 (Appearance of the Lot), 606 (Swimming Pools, Ponds and any Stationary or Non-Flowing Pools of Water or Other Liquids), 608 (Ceiling Clearance Requirement), 623 (Vehicular Entrances and Exits), 624 (Adoption of State and National Fire Codes), 626 (Surface Water Run-off), 627 (Prohibited Building Uses, Structures and Activities), 628 (Garbage, Trash and Other Refuse Material Containment and Concealment), 631 (Razing and Demolition of Buildings), 633 (Compliance with City Housing Enforcement Ordinance No. 170), and 634 (Flood Plain Ordinance).

(B) Additionally, the occupants of the Military district shall fully comply with all other ordinances and administrative rules and regulations of the City of Buckhannon and the City's Utility Boards, together with the statutes and administrative rules and regulations of the State of West Virginia and

the United States of America and the agencies thereof. Some specific areas of compliance that the Military district occupants shall satisfy include but are not limited to surface water drainage, asbestos inspection and abatement, permit acquisition, contractor B & O tax payment when applicable, and electrical and fire code compliance.

(C) Furthermore, while there generally shall be no height limitation for buildings and structures within the Military zoned district, no building or structure shall be permitted to be constructed or erected therein exceeding a height that is deemed to create any violation or issue for the operation of the Upshur County Airport in accordance with the rules and regulations of the Federal Aviation Administration (FAA).

ARTICLE V – MISCELLANEOUS PROVISION:

All other provisions of Ordinance No. 244 and any and all other ordinances of the City of Buckhannon not amended hereby, shall be deemed to remain in full force and legal effect except for those provisions which are expressly amended pursuant to the provisions hereof.

ARTICLE VI – 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 VII - 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., September 21, 2014.

FIRST READING:	August 7, 2014
SECOND READING, PASSAGE AND ADOPTION:	August 21, 2014

Kenneth T. Davidson, Mayor

CERTIFICATE OF ENACTMENT

I, Richard W. Edwards, City Recorder, do hereby certify that the foregoing Ordinance No. 384 was lawfully ordained and enacted by the Council of the City of Buckhannon at a regular session of the said Council assembled on August 21, 2014.

Richard W. Edwards, City Recorder

ORDINANCE NO. 386 OF THE CITY OF BUCKHANNON, AN ORDINANCE
AMENDING ZONING ORDINANCE NO. 244 OF THE CITY OF BUCKHANNON,
BY REZONING ALL OF THE REAL ESTATE, i.e., 5.4 ACRES, ANNEXED INTO THE CORPORATE
LIMITS OF BUCKHANNON IN JULY OF 2014 FROM "R-1", SINGLE FAMILY RESIDENTIAL
DISTRICT TO INDUSTRIAL DISTRICT

WHEREAS, pursuant to Section 615 of Ordinance No. 244 of the City of Buckhannon, real estate annexed into the City is classified as "R-1", Single Family Residence District, until such annexed areas may be otherwise zoned; and,

WHEREAS, pursuant to Ordinance No. 382 adopted on July 17, 2014 and effected on August 17, 2014, the City Council approved the annexation into the City's corporate limits three (3) tracts of land aggregating 5.4 acres situated along or near the eastern side of the Brushy Fork Road, being Upshur County Route No. 7, all in Buckhannon District, Upshur County, West Virginia, all of which real estate was thus zoned "R-1", Single Family Residence District; and,

WHEREAS, pursuant to a properly published legal notice, a public meeting of the Planning Commission of the City of Buckhannon was held on October 28, 2014, to specifically consider the possible amendment to Ordinance No. 244 insofar as rezoning of the aforesaid 5.4 acres of land from "R-1," i.e., Single Family Residence District to Industrial district; and,

WHEREAS, as a result of the aforesaid public meeting, the said Planning Commission voted to specifically recommend that the City Council amend Ordinance No. 244 by rezoning the subject 5.4 acres of land from "R-1," i.e., Single Family Residence District to Industrial District, said recommendation being set forth in that certain report dated November 6, 2014 which was previously filed with the City Council; and,

WHEREAS, the Council of the City of Buckhannon now deems it to be reasonable and appropriate to adopt the foregoing recommendation of the Planning Commission as is set forth within the Commission's November 6, 2014 report emanating from the October 28, 2014 meeting, and further in the manner as is depicted and set forth upon the attached map.

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

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

(1) That the Council of the City of Buckhannon hereby adopts the recommendation of the Planning Commission as is set forth within the Commission's report dated November 6, 2014, and as emanating from the October 28, 2014 meeting, and in so doing does specifically hereby amend Ordinance No. 244 of the City of Buckhannon, as hereinafter set forth.

(2) That the geographical area depicted and set forth upon the attached map, i.e., the 5.4 acres, and more particularly hereinafter described and referenced shall henceforth be zoned as Industrial District.

ARTICLE II – GENERAL DESCRIPTION OF REAL ESTATE:

All of the 5.4 acres of land that were annexed into Buckhannon's corporate limits pursuant to Ordinance No. 382 of the City of Buckhannon in July of 2014.

ARTICLE III – MISCELLANEOUS PROVISION:

All other provisions of Ordinance No. 244 and any and all other ordinances of the City of Buckhannon not amended hereby, shall be deemed to remain in full force and legal effect except for those provisions which are expressly amended pursuant to the provisions hereof.

ARTICLE IV – 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 V - 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., January 18, 2015.

FIRST READING: December 4, 2014

SECOND READING, PASSAGE AND ADOPTION: December 18, 2014

Richard W. Edwards, Mayor

CERTIFICATE OF ENACTMENT

I, Amberle Jenkins, Assistant City Recorder, do hereby certify that the foregoing Ordinance No. 386 was lawfully ordained and enacted by the Council of the City of Buckhannon at a regular session of the said Council assembled on December 18, 2014.

Amberle Jenkins, Assistant City Recorder

ORDINANCE NO. 426 OF THE CITY OF BUCKHANNON, AN ORDINANCE
AMENDING ZONING ORDINANCE NO. 244 AND ORDINANCE NO. 282 OF THE CITY OF
BUCKHANNON, BY REZONING A PORTION OF THAT PROPERTY LOCATED AT 29 ARMORY
ROAD FROM “C-2” HIGHWAY COMMERCIAL DISTRICT TO “I” INDUSTRIAL DISTRICT

WHEREAS, the City of Buckhannon first adopted comprehensive zoning in 1973 pursuant to Ordinance No. 166; and,

WHEREAS, by Ordinance No. 244, the City of Buckhannon established the zoning structure for the City of Buckhannon which is in operation as of the date of this Ordinance; and,

WHEREAS, by Ordinance No. 282, the City of Buckhannon designated certain lands, including the lands re-zoned by this Ordinance, as being part of the “C-2” Highway Commercial Zone; and,

WHEREAS, the land subject to this Ordinance has a commonly known address of 29 Armory Road and appears on the assessment records of Upshur County, West Virginia, as Corporation District, Map 17, Parcel 4.1 (the “Subject Property”); and,

WHEREAS, the owner of the Subject Property has requested a rezoning of a part thereof in order to facilitate its use in manufacturing processes, which are not permitted within the C-2 Highway Commercial District but are permitted within the “I” Industrial District; and,

WHEREAS, a portion of the building located on the aforesaid property – being the former West Virginia National Guard Armory – is located partially within the C-2 District and partially within the I District; and,

WHEREAS, the Planning Commission of the City of Buckhannon, following a properly published legal notice and public hearing held on May 30, 2018, specifically recommended to the City Council during its meeting on June 18, 2018, that the aforesaid portion of the Subject Property be rezoned; and,

WHEREAS, the Council believes it is reasonable and appropriate, and consistent with the City’s Comprehensive Plan, to permit the rezoning of that portion of the Subject Property; and,

WHEREAS, the Council of the City of Buckhannon now deems it to be reasonable and appropriate to adopt all of the foregoing recommendations of the Planning Commission as are set forth within the Commission's report emanating from the aforesaid June 18, 2018 meeting; and,

WHEREAS, the statutory provisions of West Virginia Code section 8-11-3(8) require that actions of the municipality in the case of planning and zoning be by adoption of an 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 the amendments to the City's comprehensive zoning ordinance, being Ordinance No. 244, are concerned.

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

ARTICLE I – REZONING OF A PORTION OF THAT PROPERTY LOCATED AT 29 ARMORY ROAD:

(1) The Council of the City of Buckhannon does hereby adopt the recommendation of the Planning Commission as set forth within the Commission's report dated June 18, 2018 and as emanating from their meeting and public hearing of the same date, does find that such recommendation is consistent with the City's Comprehensive Plan, and in so doing does specifically hereby amend Ordinance No. 244 and Ordinance No. 282, to incorporate the following:

(a) That portion of the tract identified as Corporation District, Map 17, Parcel 4.1 upon which lies that structure formerly known as the West Virginia National Guard Armory, with an address of 29 Armory Road, from a point in the municipal limits (also being the boundary line of the Subject Property) one hundred thirty-three feet eastward from West Virginia State Route 20, northward to the northern edge of the existing driveway, is rezoned to be included in the "I" Industrial District.

(2) That all of the real estate affected by this rezoning is more particularly shown and set forth upon that certain map which is attached hereto and which is expressly made a part hereof.

(3) That all other provisions of Ordinance Nos. 244 and 282 shall remain in full force and legal effect, except for those provisions which are expressly amended pursuant to the provisions hereof.

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 third (3rd) reading, public hearing, passage and adoption by the Council of the City of Buckhannon, i.e., September 15, 2018.

FIRST READING:	July 5, 2018
SECOND READING	July 19, 2018
THIRD READING, PUBLIC HEARING, PASSAGE AND ADOPTION:	August 16, 2018

A handwritten signature in black ink, appearing to read "David W. McCauley", is written over a horizontal line.

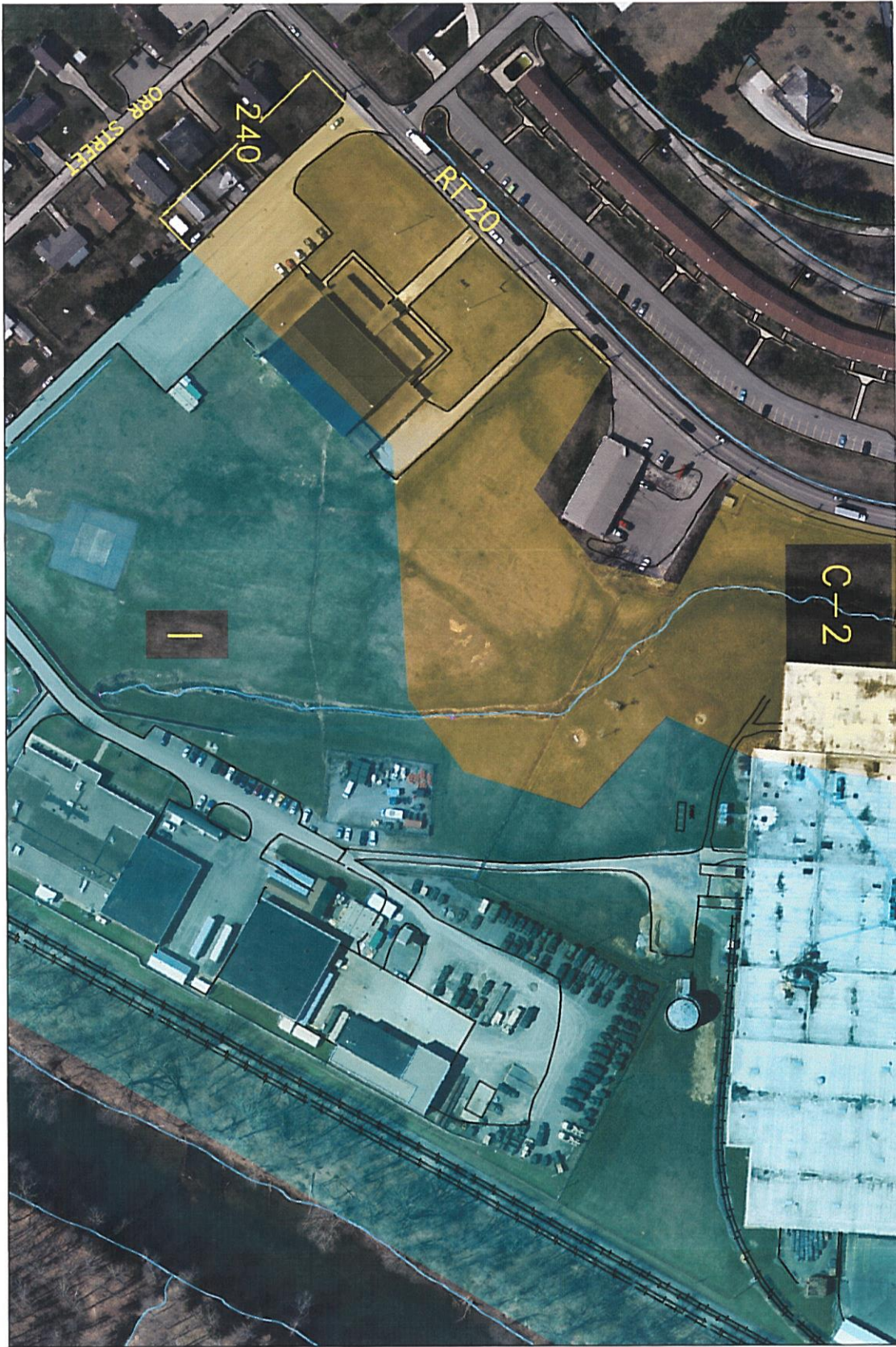
David W. McCauley, Mayor

CERTIFICATE OF ENACTMENT

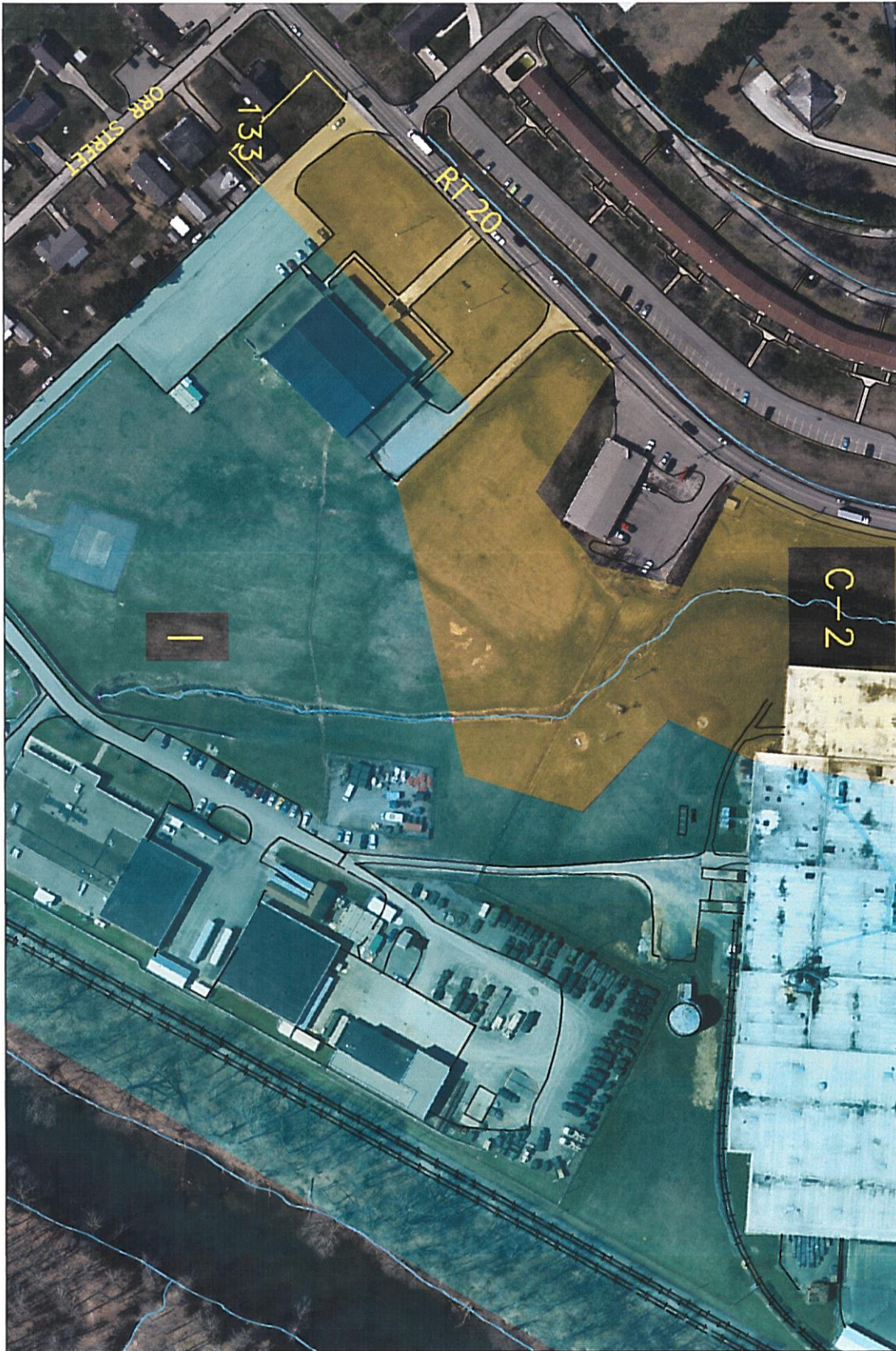
I, Colin Reger, City Recorder, do hereby certify that the foregoing Ordinance No. 426 was lawfully ordained and enacted by the Council of the City of Buckhannon at a regular session of the said Council assembled on August 16, 2018.

A handwritten signature in black ink, appearing to read 'Colin Reger', written in a cursive style.

Colin Reger, City Recorder



Existing



Proposed

ORDINANCE NO. 427 OF THE CITY OF BUCKHANNON, AN ORDINANCE
AMENDING ZONING ORDINANCE NO. 244 OF THE CITY OF BUCKHANNON, BY REZONING
THOSE PROPERTIES LOCATED AT 52, 54 & 56 SOUTH KANAWHA STREET FROM “R-2”
GENERAL RESIDENTIAL DISTRICT A TO “C-1” CENTRAL COMMERCIAL BUSINESS DISTRICT

WHEREAS, the City of Buckhannon first adopted comprehensive zoning in 1973 pursuant to Ordinance No. 166; and,

WHEREAS, by Ordinance No. 244, the City of Buckhannon established the zoning structure for the City of Buckhannon which is in operation as of the date of this Ordinance; and,

WHEREAS, by in said Ordinance No. 244, the City of Buckhannon designated certain lands, including the lands re-zoned by this Ordinance, as being part of the “R-2” General Residential District A; and,

WHEREAS, the properties subject to this Ordinance have commonly known addresses, respectively, of 52, 54, and 56 South Kanawha Street and appear on the real property tax assessment records of Upshur County, West Virginia, respectively, as Corporation District, Map 7, Parcels 177, 179, and 183 (the “Subject Properties”); and,

WHEREAS, the owners of the Subject Properties have requested a rezoning of the Subject Properties in order to make greater use and realize greater value from their respective properties; and,

WHEREAS, the Planning Commission of the City of Buckhannon, following a properly notice special meeting held on June 28, 2018, specifically recommended to the City Council that the aforesaid Subject Properties be rezoned; and,

WHEREAS, the Council believes it is reasonable and appropriate, and consistent with the City’s Comprehensive Plan, to permit the rezoning of the Subject Properties; and,

WHEREAS, the Council of the City of Buckhannon now deems it to be reasonable and appropriate to adopt all of the foregoing recommendations of the Planning Commission as are set forth within the Commission’s report emanating from the aforesaid June 28, 2018 meeting; and,

WHEREAS, the statutory provisions of West Virginia Code section 8-11-3(8) require that actions of the municipality in the case of planning and zoning be by adoption of an 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 the amendments to the City's comprehensive zoning ordinance, being Ordinance No. 244, are concerned.

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

ARTICLE I – REZONING THOSE PROPERTIES LOCATED AT 52, 54, and 56 SOUTH KANAWHA STREET:

(1) The Council of the City of Buckhannon does hereby adopt the recommendation of the Planning Commission as set forth within the Commission's recommendation dated June 28, 2018 as emanating from their meeting of the same date, does find that such recommendation is consistent with the City's Comprehensive Plan, and in so doing does specifically hereby amend Ordinance No. 244, to incorporate the following:

(a) Those tracts identified as Corporation District, Map 7, Parcels 177, 179, and 183, with respective addresses of 52, 54, and 56 South Kanawha Street, are rezoned to be included in the "C-2" Central Commercial Business District.

(2) That all of the real estate affected by this rezoning is more particularly shown and set forth upon that certain map which is attached hereto and which is expressly made a part hereof.

(3) That all other provisions of Ordinance No. 244 shall remain in full force and legal effect, except for those provisions which are expressly amended pursuant to the provisions hereof.

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 15, 2018.

FIRST READING:

July 19, 2018

SECOND READING,
PASSAGE AND ADOPTION:

August 16, 2018

A handwritten signature in black ink, appearing to read "David W. McCauley", written over a horizontal line.

David W. McCauley, Mayor

CERTIFICATE OF ENACTMENT

I, Colin Reger, City Recorder, do hereby certify that the foregoing Ordinance No. 427 was lawfully ordained and enacted by the Council of the City of Buckhannon at a regular session of the said Council assembled on August 16, 2018.

A handwritten signature in black ink, appearing to read "Colin Reger", written over a horizontal line.

Colin Reger, City Recorder

ZONING JULY 2018



STRUCTURES TO
BE REZONED
FROM R2 TO C1

