

ORDINANCE NO. 459 OF THE CITY OF BUCKHANNON, AN ORDINANCE
AMENDING PRIOR ORDINANCES OF THE CITY OF BUCKHANNON
BY PROVIDING FOR THE ADOPTION OF THE WEST VIRGINIA STATE BUILDING
CODE SET FORTH AND DEFINED BY TITLE 87, SERIES 4 OF
THE CODE OF STATE RULES, AS AMENDED; AND DECLARING AN EMERGENCY

WHEREAS, West Virginia Code §8-12-13 empowers municipalities to adopt building codes, but requires that any code adopted be the state building code as promulgated by the state fire commission; and,

WHEREAS, the City of Buckhannon has one year from the promulgation of said state building code in which to adopt the same; and,

WHEREAS, the Council of the City of Buckhannon passed and adopted Ordinance No. 377, being the City of Buckhannon's Electrical Inspection and Fire Protection Ordinance, on September 19, 2013, effective on October 19, 2013; and,

WHEREAS, the said Ordinance No. 377 was amended in certain respects by the provisions of Ordinance No. 378, including the imposition of a fee structure, effective February 1, 2014; and,

WHEREAS, Ordinance No. 398, effective January 16, 2016 placed into effect the 2015 edition of the International Property Maintenance Code, making certain amendments thereto and establishing further fee structures; and

WHEREAS, Ordinance No. 417, effective June 2, 2017, placed into effect the 2015 State Building Code, as demised therein; and

WHEREAS, Ordinance No. 436, effective April 18, 2019, placed into effect the International Building Code 2015 (with amendments), and other codes; and

WHEREAS, Ordinance No. 446, effective August 20, 2020, placed into effect the NFPA Life Safety Code 2018 edition and the 2017 edition of the National Electric Code, NFPA 70; and

WHEREAS, the State Fire Commission, pursuant to Legislative Rules promulgated by the Fire Marshal under West Virginia Code §29-3-5b, dated May 5, 2022, made certain changes to Title 87 – Series 4 effect August 1, 2022, and this Ordinance is adopted in order to provide for municipal adoption and enforcement of those same codes; and,

WHEREAS, the Office of the State Fire Marshall has adopted further updates to national standards and codes for commercial buildings; and,

WHEREAS, the City of Buckhannon was made aware of these updated by letter dated June 1, 2022, and this Ordinance is presented to the Council of the City of Buckhannon for its consideration at the first opportunity since receiving said notice; and,

WHEREAS, the Officer of the State Fire Marshall has required updated ordinances to be adopted and effective on or before August 1, 2022, otherwise "all building codes previously adopted by local jurisdictions are null and void", but receipt of this notice was not received with sufficient time for a regular ordinance to become effective under the required timeframe; and,

WHEREAS, public health and public safety require the uninterrupted effectiveness of the building codes adopted by the City, thus necessitating the declaration of an emergency under Section 16 of the Charter of the City of Buckhannon; and,

WHEREAS, the Council of the City of Buckhannon desires in all respects to comply with the statutes of the State of West Virginia insofar as matters concerning building codes, and wishes to remain under the existing State Building Code.

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

ARTICLE I - ADOPTION: The Council of the City of Buckhannon hereby amends and reenacts Ordinance Nos. 378, 398, 417, 436, 446, or any other ordinances previously adopted concerning building codes, by adopting and incorporating by reference, as if set out at length herein, for the purposes of safeguarding life and property and to ensure the quality of construction of all structures erected, renovated, or removed throughout the City, that certain code known as the State Building Code, set forth and defined by Legislative Rule Title 87, Series 4 of the West Virginia Code of State Rules, as amended, as promulgated by the West Virginia State Fire Marshal pursuant to authority granted in West Virginia Code § 29-3-5b.

The standards and requirements as set out and published by the International Code Council, and American National Standards Institute, and the National Fire Protection Association, as listed below, and as adopted by the State Fire Commission with an effective date of August 1, 2022, shall have the same force and effect as if set out verbatim herein:

- a. The 2018 edition, International Building Code, as amended by section 4.1.a of 87 CSR 4;
- b. The 2018 edition of the International Plumbing Code;
- c. The 2018 edition of the International Mechanical Code, as modified by section 4.1.c of 87 CSR 4;
- d. The 2018 edition of the International Fuel Gas Code, as modified by section 4.1.d of 87 CSR 4;
- e. The 2018 edition of the International Property Maintenance Code
- f. The 2015 edition of the International Energy Conservation Code, as modified by section 4.1.f of 87 CSR 4;
- g. The ANSI/ASHRAE/IESNA (as defined in 87 CSR 4) Standard 90.1 2013 edition for commercial buildings;
- h. The 2018 edition of the International Residential Code for One- and Two-Family Dwellings, as modified by section 4.1.h of 87 CSR 4;
- i. Section R311.7.5 Stair Treads and Risers
- j. [Reserved]
- k. [Reserved]
- l. The 2017 ICC/ANSI (as defined in 87 CSR 4) A117.1 American National Standards for Accessibility & Usable Buildings & Facilities

- m. The 2018 International Existing Building Code, as modified by section 4.1.1.2 of 87 CSR 4;
- n. The 2020 edition of the National Electrical Code, NFPA 70, as modified by section 4.1.m of 87 CSR 4;
- o. The 2018 edition of the International Swimming Pool and Spa Code; and
- p. Any other codes adopted, as amended or modified, in 87 CSR 4.

Wherever referenced in the several ICC codes adopted in this Ordinance or in 87 CSR 4, any reference to the International Fire Code should be substituted with the NFPA Life Safety Code 2021 edition.

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

ARTICLE III – EFFECT UPON CITY ORDINANCE NOS. 378, 398, 417, 436, 446 AND ANY AND ALL OTHER ORDINANCES OF THE CITY OF BUCKHANNON PREVIOUSLY ENACTED RESPECTING INSPECTIONS, PERMITS OR FEES: The provisions of Ordinance Nos. 378, 398, 417, 436, 446 and any and all other Ordinances of the City of Buckhannon previously adopted are hereby amended only to the extent of the provisions of this Ordinance; however, all provisions of previously adopted City ordinances, particularly Ordinance Nos. 378, 398, 417, 436, and 446 of the City of Buckhannon, that are not expressly amended by this Ordinance, including their imposition of requirements for inspections, permits, and fees payable to the City, shall remain in full force and legal effect.

ARTICLE IV – DECLARATION OF EMERGENCY AND EFFECTIVE DATE: Pursuant to Section 16 of the Charter of the City of Buckhannon, the City Council does unanimously declare that public health and public safety demand the declaration of an emergency in the adoption of this ordinance, and that an emergency is hereby declared. This Ordinance shall take effect and be in full force immediately upon its passage by the Council of the City of Buckhannon on July 7, 2022.

FIRST READING: June 16, 2022

SECOND READING, PASSAGE AND ADOPTION: July 7, 2022



Robert N. Skinner, III, Mayor

CERTIFICATE OF ENACTMENT

I, Randall H. Sanders, City Recorder, do hereby certify that the foregoing Ordinance No. 459 was lawfully, and unanimously, ordained and enacted by the Council of the City of Buckhannon at a regular session of the said Council assembled on July 7, 2022.



Randall H. Sanders, City Recorder