

**STATE OF WEST VIRGINIA; COUNTY OF UPSHUR; CITY OF BUCKHANNON; TO-WIT:**

A Buckhannon Housing Enforcement Board Regular Meeting was held on April 21, 2025, at 5:30 pm in City Hall. The following people were present:

Mayor	Robbie Skinner	Present
Recorder	Randy Sanders	Present
Building Code Enforcement Officer	Vincent Smith	Present
Board Member	David Thomas	Present
City Engineer	Jay Hollen	Present
Upshur County Health Dept Officer	Sue McKisic; RN, BSN	Present
BFD Chief	J.B. Kimble	Present
UC Safe Sites & Structures Rep	Jerry Wamsley	Present
City Attorney	Tom O'Neill	Present

Guests: Erin Dyer, GTM

City of Buckhannon Housing Enforcement Board  
Meeting Agenda  
5:30 PM Monday, April 21, 2025  
Council Chambers | 70 East Main Street

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1. Call to Order
  2. Moment of Silence
  3. Pledge of Allegiance
  4. Approval of Previous Meeting Minutes: 10/21/2024
  5. Public Comments – Motion to Open & Close Requested
  6. Recognition of Guests
  7. Department Report – Building Code Enforcement Officer, Vincent Smith
    - a. Vacant Properties Case Status Report
    - b. Code Enforcement Case Status Report
      - i. Complaint Received from UBHD re: 21 Sedgwick Street
      - ii. Complaint Received from Residents re: 22 Elizabeth Street
    - c. Update Regarding the Progress of Properties of Primary Concern
      - i. 5 ½ Cooper Street-Good Neighbor Property Cleanup
      - ii. Cambridge Heights – Sprinkler System Operational
      - iii. 62 S. Kanawha Street- Waterline Replacement & Service Activated
      - iv. 93 E Main Street-Appearance of Lot
      - v. 5 Madison Street-Appearance of Lot
      - vi. 47 Cleveland Ave-Appearance of Lot
      - vii. 16 Elizabeth Street-Appearance of Lot
      - viii. 15 Sedgwick Street-Appearance of Lot
      - ix. 44 Cleveland Avenue-Appearance of Lot
      - x. 86 Randolph St-Ownership
      - xi. 85 Elm Street-Update Fence, Tree & Shrub Removal from R.O.W.
  8. Old Business Discussion
    - a. Update on the Condemnation Process
    - b. Discussion Ordinance No. 367 Vacant Building Procedures for Administration & Enforcement
  9. Report of Events, Correspondence, and Information
    - a. HEB 2025 Meeting Schedule
  10. Board Members’ Remarks and Announcements
  11. Declaration of Adjournment

*This agenda is certified by Mayor Robbie Skinner on April 15, 2025. To participate in this meeting virtually, use this link: <https://global.gotomeeting.com/join/520841085>, or by phone, call: +1 (786) 535-3211, access code: 520-841085.*

**1. Call to Order:** At 5:30 p.m., Mayor Robbie Skinner called the April 21, 2025, meeting of the Housing Enforcement Board to order.

**2. Moment of Silent Reflection**—Mayor Skinner invited those in attendance to a moment of silent reflection.

**3. Pledge of Allegiance**—Mayor Skinner invited those in attendance to recite the Pledge of Allegiance.

**4. Approval of Previous Meeting Minutes: 10/21/2024** - Mayor Skinner recognized that the meeting minutes of 10/21/2024 were available for consideration and asked for corrections or approval as presented.

**Hollen/Thomas motioned to approve the minutes of the meetings of 10/21/2024 as presented. The motion carried.**

**5. Public Comment – Motion to Open & Close Requested** – There were no one in attendance for Public Comment, so no action was necessary

**6. Recognition of Guests** – There were no guests to be recognized.

**7. Department Report –Building Code Enforcement Officer, Vincent Smith** - Mr. Smith was recognized to report on, and participate in discussion regarding the following:

**a. Vacant Properties Case Status Report** – An overview of the report was provided, and a discussion took place. 3 properties have been removed from the list; 11 properties are on hold; and 51 properties are currently vacant with some owners having 2 to 3 years of paying the assessment.

#### **Vacant Properties Meeting April 21, 2025**

##### **REMOVED**

1. 7 Academy St- New Owner
2. 6 ½ Island Ave- Demo
3. 40 Meade St- Water On

##### **ON HOLD**

1. 129 Barbour St- Permit
2. 138 Barbour St- Permit
3. 140 Camden Ave- Trying to sell
4. 96 E Main- New Owners
5. 14 Island Ave- New Owners
6. 12 Leonard St- Permit
7. 456 Morton Ave- Permit
8. 41 North Florida- New Owners
9. 27 Pinnell St- New Owners
10. 133 Pocahontas St- Permit
11. 115 Wood St- Permit

##### **ACTIVE**

1. 5 Chestnut St
2. 44 Cleveland Ave
3. 47 Cleveland Ave
4. 6 Cooper St
5. 93 East Main St
6. 15 Elizabeth St
7. 1 Factory St
8. 6 Franklin St
9. 62 Highland Dr
10. 14 Huffman Ln
11. 5 Madison St
12. 5 Monongalia St
13. 67 Morton Ave

- 14. 69 Morton Ave
- 15. 58 North Florida St
- 16. 64 North Florida St
- 17. 70 Oklahoma Ave
- 18. 184 Pocahontas
- 19. Putnam St
- 20. 86 Randolph St
- 21. 87 Randolph St
- 22. 90 Randolph St
- 23. 97 Randolph St
- 24. 107 Randolph St
- 25. 163 Randolph St
- 26. 37 South Florida St
- 27. 44 South Florida St
- 28. 60 South Florida St
- 29. 119 South Florida St
- 30. 121 South Florida St
- 31. 139 South Florida St
- 32. 198 South Florida St
- 33. 205 South Florida St
- 34. 29 South Kanawha St
- 35. 35 South Kanawha St
- 36. 105 South Kanawha St
- 37. 143 South Kanawha St
- 38. 166 South Kanawha St
- 39. 189 South Kanawha St
- 40. 191 South Kanawha St
- 41. 193 South Kanawha St
- 42. 41 North Spring St
- 43. 34 Thurman Ave
- 44. 40 Thurman Ave
- 45. 529 Upper Dr
- 46. 47 West Lincoln St
- 47. 48 West Lincoln St
- 48. 19 West Victoria St
- 49. 111 Wood St
- 50. 123 Wood St
- 51. 125 Wood St
- 52. 7 Zeno

**b. Code Enforcement Case Status Report** – An overview of the report was provided, and a discussion took place.



**Case Status Report**  
**10/19/2024 - 04/17/2025**

Case Date	Case #	Parcel #	Parcel Address	Owner Name	Tennant	Description	Main Status
Group: Active							
4/16/2025	356	3-20-2	5 CAMBRIDGE HEIGHTS DRIVE	M & H APARTMENTS LLC	Cambridge Heights Apt 701	Sewer Leak-sewage on floor of apt, damage to drywall, carpet, subfloor	Active
4/9/2025	355	3-12-101	188 POCAHONTAS STREET	WOOD MATTHEW JAMES	James Matthew Wood	Installed Fence on the City's ROW	Active
4/8/2025	354	3-4-224.2	27 33 EAST	VANNOSTRAND	OWNER-	IN THE OLD	Active

			MAIN STREET	JAMES BRYSON G	BRYSON VANNOSTRAND	HOME HARDWARE VACANT BLDING. THERE IS A GAP AT THE TOP OF THE GLASS AND THE WOOD THAT RUNS ALONG THE BOTTOM IS ROTTEN. GLASS HAZARD & SAFETY ISSUE	
4/2/2025	353	3-5-99	126 EAST MAIN STREET	ZIRKLE SHALLE D & LORI M	SHALLE ZIRKLE	EASY UP OVER THEIR CAR IN THE ROAD- CAUSING A SIGHT TRIANGLE	Active
3/18/2025	352	3-10-71	125 SOUTH KANAWHA STREET	TENNEY CLYDE O	Claude Tenney	Baiting Deer & Bow kill of 3 Deer	Active
3/18/2025	351	3-11-315	34 RITCHIE STREET	TENNEY CLYDE O	Claude Tenney	Chickens in garage at 34 Ritchie St	Active
3/18/2025	350	3-7-370	83 SOUTH FLORIDA STREET	LEE KEVIN A	SHOSHANA WHITE (UTILITIES)	SAYS THERE IS HOLES AROUND THE ROOF AND THERE IS SIGNS OF A BIRD INFESTION & POSSIBILITY OF OTHER RODENTS. FECAL MATTER IS CAKED ON THE SIDING)	Active
3/7/2025	349	3-10-25	20 PARK STREET	BUCKHANNON CITY OF		Somebody is living at the top area of the City Park in the woods (W. Victoria St)	Active
2/27/2025	348	3-5-135	3 GATE STREET	WATSON LARRY N & LORETTA C		WHEN THE LEAVES ARE NOT ON, HIS TRUCK KEEPS GETTING COVERED WITH SAWDUST. WOULD LIKE TO SEE SOMETHING TO BE DONE.	Active
2/26/2025	347	3-10-90	PUTMAN STREET	SANDY JOHN & NANCY M	JOHN & NANCY SANDY	VACANT PROPERTY	Active
2/21/2025	346	3-8-135	88 POCAHANTAS STREET	LEGACY PLACE LLC		Fire Service Line Froze & Busted	Active
2/19/2025	345	3-4-417	21 SEDGWICK STREET	HOWARD JONI NELSON		Feral Cats, Pigeons, Rodents in crawlspcace & attic	Active
2/10/2025	344	3-5-99	126 EAST MAIN STREET	ZIRKLE SHALLE D & LORI M		126 E MAIN ST- BLARING THE SPEAKERS; FRAT HOUSES NEAR THE PARISH HOUSE IS PARTYING TIL 1-2 AM LOTS OF YELLING AND BLARING MUSIC FROM THE CAR SPEAKERS; DRUNKS DOWN ON JAWBONE. WOULD LIKE SOMETHING DONE ABOUT IT	Active

						THE GUY ON CRUTCHES THAT IS PASSING OUT DRUNK IN PEOPLES YARDS.	
2/5/2025	343	3-10-90	PUTMAN STREET	SANDY JOHN & NANCY M	John & Nancy Sandy, Owners	Vacant Buildings- Complaint of Homeless people activities	Active
1/29/2025	342	3-7-354	22 ELIZABETH STREET	RIFFLE CAROLYN SUE	Rachel Farance	For about 3 weeks, Generator has been running continuously, no main power and noise complaint	Active
1/23/2025	341	3-1-63	5 1/2 COOPER STREET	BENNETT FRONA JUNE	Frona Bennett 304-613-9259	Single Story 1 Family Dwelling with a working Basement Fire	Active
1/22/2025	340	3-10-122	6 MARION STREET	JOHNSON JOHN H		Neighbor at 6 Marion St- Disposal of Dog Excrement upon properties in the neighborhood	Active
1/16/2025	339	3-1-54	12 COOPER STREET	LOUGH MABEL R	Roger Lough 304-940-0911	People living in the crawl space under the porch & in a tent on the property	Active
1/13/2025	338	3-2-53	48 THURMAN AVENUE	MACKEY ELLA & PAUL B	Owner Ella & Paul Mackey	Carport Encroachment on FEMA Lot & Garage Encroachment on COB Street/ROW	Active
1/10/2025	337	3-10-139	159 FAYETTE STREET	AUSKINGS LAWRENCE H & SHERRY D	Christi Rowan	911 Called -BFD Dispatched to 159 Fayette St- Fire: Hot extension cord, melting wire.	Active
1/10/2025	336	3-20-2	5 CAMBRIDGE HEIGHTS DRIVE	M & H APARTMENTS LLC	Eugene Smith	The bathroom unfinished with mold & Cold air coming in sliding door	Active
12/26/2024	335	3-7-380	34 SOUTH FLORIDA STREET	DEAN NATHANIEL COREY	NATHANIEL DEAN- OWNER	WEBB SAYS THAT DEAN IS GOING TO TURN HIS HOME INTO A HOMELESS SHELTER	Active
10/23/2024	329	3-7-179	54 SOUTH KANAWHA STREET	SAUERWEIN CHRISTOPHER	Sara Matheney & Child, Boyfriend Brad Shipley	Building Code Violation at 54 S Kanawha St Garage Apt & Police Dept Law Enforcement Issues	Active
Group Total: 23							

Specific issues follow:

**i. Complaint Received from UBHD re: 21 Sedgwick Street – Concern from the Health Department re: Ferrell cats, and rodents.** Mr. Smith reported that he has followed up with the property owner and the problem has been corrected.

**ii. Complaint Received from Residents re: 22 Elizabeth Street** – This property has no power and is being serviced by a gas generator. City Attorney Tom O'Neill addressed the issue noting that his opinion was the Noise Ordinance is applicable, and the BPD has issued a citation per this ordinance. He explained that while the ordinance has an exception for domestic power tools, a gas operated generator that is being used continually to provide household power should not be considered a domestic power tool. There could also be action under the International Building Code that we have adopted. Mr. O'Neill does recommend that the City Council look at amending the Noise Ordinance (with an appropriate ordinance) to alleviate any ambiguity regarding domestic power tool use. The neighborhood residents could also file a claim regarding the noise nuisance.

**Thomas/Hollen motioned to recommend to the City Council to strengthen the Noise Ordinance, specifically any exclusion regarding noise from domestic power tools. The motion carried.**

ORDINANCE NO. 365 OF THE CITY OF BUCKHANNON, AN ORDINANCE:  
(1) ESTABLISHING RULES AND REGULATIONS REGARDING THE PROHIBITION OR LIMITATION OF NOISE WITHIN THE CORPORATE LIMITS OF BUCKHANNON; (2) ESTABLISHING EXEMPTIONS FOR NOISE; AND (3) MAKING IT A CRIMINAL OFFENSE TO VIOLATE THE PROVISIONS OF THIS ORDINANCE

WHEREAS, pursuant to the statutory provisions of Chapter 8, Article 12, Section 5, Paragraph 13 of the West Virginia Code, as amended, municipalities are authorized to adopt ordinances preventing injury and annoyance to the public or individuals from anything dangerous, offensive or unwholesome; and,

WHEREAS, further pursuant to the statutory provisions of Chapter 8, Article 12, Section 13, Paragraph 46 of the West Virginia Code, as amended, municipalities are authorized to adopt ordinances to protect and promote the public morals, safety, health, welfare, and good order; and,

WHEREAS, excessive sound and inadequately controlled noise constitute serious hazards to the public safety, health, welfare, and generally impair and negatively impact the community's quality of life; and,

WHEREAS, a substantial body of science and technology exists by which excessive sound may be substantially abated; and,

WHEREAS, the citizens of the City of Buckhannon have a right to, and should be ensured of, an environment free from excessive sound; and,

WHEREAS, it is the policy of the City of Buckhannon to protect the health, welfare, safety, and quality of life of its citizens and to promote an environment free from excessive sound; and,

WHEREAS, it is the policy of the City of Buckhannon to prevent excessive sound that may jeopardize the health, welfare or safety of its citizens or degrade the quality of life.

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

ARTICLE I – DECLARATION OF POLICY: This Ordinance is enacted to prevent excessive sound that may jeopardize the health, welfare, or safety of the citizens of Buckhannon or degrade the quality of life. It is neither the purpose nor intent of this Ordinance to unduly interfere with the freedoms of speech or religion. This Ordinance shall be known as the City of Buckhannon's Noise Ordinance.

ARTICLE II – DEFINITIONS: The following words and terms when used in this Ordinance shall have the following meanings unless the context clearly otherwise requires:

(A) A-Weighted Sound Level means the sound pressure level in decibels as measured on a sound level meter using the A-weighting network. The level so read is designated dB(A) or dBA.

(B) City means the jurisdictional limits of the City of Buckhannon, West Virginia.

(C) Decibel, the symbol for which is dB, means a unit for measuring the volume of a sound, equal to 20 times the logarithm to the base 10 of the ratio of the pressure of the sound measured to the reference pressure, which is 20 micropascals (20 micronewtons per square meter).

(D) Dwelling means a residence or abode, including, but not limited to, a house, mobile-home, condominium, apartment or other structure used as a home.

(E) Dynamic braking system means a device used primarily on trucks for the conversion of the engine from an internal combustion engine to an air compressor for the purpose of braking without the use of wheel brakes, which devices are sometimes referred to as "Jacob's brakes" or "Jake brakes."

(F) Motorboat means every description of watercraft, other than a seaplane on the water, used or capable of being used as a means of transportation on water, propelled by an electric, steam, gas, diesel or other fuel propelled or driven by motor, whether or not the motor is the principal source of propulsion, but does not include a boat which has a valid marine document issued by the Bureau of the United States government or any federal agency successor thereto.

(G) Motorcycle means every motor vehicle having a seat or a saddle for the use of the rider and designed to travel on not more than three wheels in contact with the ground, excluding a tractor.

(H) Motor vehicle means any self-propelled vehicle including passenger cars, trucks, truck-trailers, semi-trailers, recreational vehicles, campers and racing vehicles.

(I) Muffler means a properly functioning sound dissipative device or system for abating the sound of escaping gasses on equipment where such a device is part of the normal configuration of the equipment.

(J) Noise means any sound of such character, level or duration: (1) which may be injurious to human health or welfare; or (2) which unreasonably interferes with the enjoyment of life or property throughout the city or in any portion thereof; or 3) which disturbs the good order or quiet of the community; or 4) which annoys or disturbs a reasonable person of normal sensitivity.

(K) Sound Level Meter means an instrument which includes a microphone, amplifier, RMS detector, integrator or time average, output meter and weighting networks used to measure sound pressure levels. Such instrument shall be used for measurement of the intensity of sound and calibrated in decibels as standardized by the American National Standards Institute (ANSI). Readings shall be made on a dB(A) scale.

ARTICLE III – PROHIBITED ACTIVITIES AND EXEMPTIONS: Noise prohibited; generally. Subject to the exceptions contained herein, no person shall make, continue or cause to be made any noise as prohibited herein or alternatively make, continue or cause to be made any noise exceeding the limitations established herein.

(A) Noise prohibited; motor vehicles, motorcycles, motorboats.

(1) All motor vehicles, motorcycles, and motorboats shall be operated as quietly as possible at all times within the city. No person shall operate any motor vehicle, motorcycle or motorboat in such a manner so as to cause unnecessary noise within the city.

(2) No person operating or occupying a motor vehicle on a street or highway shall amplify from within the motor vehicle the sound produced by a radio, tape player, or other mechanical sound-making device or instrument used for entertainment, so that the sound is plainly audible at a distance of 25 feet or more from the motor vehicle.

(3) No person shall remove or render inoperative, or cause to be removed or rendered inoperative, other than for purposes of maintenance, repair, or replacement, any muffler or sound dissipative device on a motor vehicle, motorcycle or motorboat operated within the city.

(4) No person shall operate, or permit the operation within the city of any motor vehicle, motorcycle, or motorboat without factory installed mufflers or their equivalent; provided that if no factory installed or equivalent muffler was present at the time of manufacture of the motor vehicle, motorcycle, or motorboat, then sound emanating from the motor vehicle, motorcycle, or motorboat shall be effectively muffled in a reasonable manner by equipment so constructed and used to muffle sound.

(5) No person shall use a muffler cutout, bypass, or similar device upon any motor vehicle or motorcycle operated within the city.

(6) No person in actual physical control of a motor vehicle within the city shall use a dynamic braking system unless said use is necessary to prevent or avoid an accident that may cause property damage, injury, or loss of life. This provision shall not apply to fire trucks or other emergency vehicles, or any school bus equipped with a dynamic braking system.

(B) Noise prohibited; dwelling.

(1) No person occupying a dwelling within the City shall amplify from within the dwelling the sound produced by a radio, tape player, television or other mechanical sound-making device or instrument used for the purposes of entertainment, so that the sound is plainly audible at a distance of 25 feet or more from the property line of the lot or parcel of land upon which said dwelling is situated.

(C) Exemptions.

(1) The following are exempt from the provisions of this Article:

(a) Noise resulting from emergency or necessary maintenance work as performed by the City of Buckhannon, the State of West Virginia, or the United States of America or any of their political subdivisions, or public utility companies, including, but not limited to, any work of any kind on roads, streets, bridges, alleys, City-owned cemetery, rights-of-way or government owned property;

(b) Noise resulting from any emergency vehicle, when responding to an emergency call or acting in time of emergency, or during training exercises and maintenance, or from any school bus;

(c) Noise from any emergency signaling device;

(d) Noise from a burglar or fire alarm installed on any building, motor vehicle or other property so long as the alarm terminates its operation within five minutes of its activation; provided



that it shall be deemed reasonable for an activated alarm to continue to operate if a crime or fire is in progress at or near the property and/or until law enforcement or other emergency personnel have responded to a legitimate call for assistance related in any way to the property at which the activated alarm is located;

(e) Noise from domestic power tools, landscaping and yard maintenance equipment, and agricultural equipment but only when operated between the hours of 7:00 a.m. and 9:00 p.m. during weekdays, i.e., Mondays through Fridays; and between the hours of 8:00 a.m. and 9:00 p.m. during weekends, i.e., Saturdays and Sundays, and legal holidays. Lawn mower racing is never deemed to be an exempt activity pursuant to the provisions of this ordinance;

(f) Noise from commercial or industrial power tools, landscaping and yard maintenance equipment, and agricultural equipment on a residential property or within 250 feet of a residential property line when operated on commercial or industrial property, between the hours of 7:00 a.m. and 9:00 p.m. on weekdays and between the hours of 8:00 a.m. and 9:00 p.m. on weekends and legal holidays;

(g) Noise from church or chapel bells and chimes when used as part of any religious observance or service or for national celebrations or public holidays, and those bells and chimes that are presently installed and in use, provided said use is reasonable and for a church or West Virginia Wesleyan College related purpose. To avoid any possible misunderstanding the noise emitted from the Upshur County Courthouse bells and West Virginia Wesleyan College's bells and chimes are exempt from the provisions of this ordinance;

(h) Noise generated during the normal course of business by any properly licensed commercial or industrial enterprise operating lawfully within an area properly zoned for said enterprise, unless or until said lawful business use is deemed abandoned as a matter of law or fact pursuant to any other City ordinance;

(i) Noise from construction, drilling, earthmoving, excavating, or demolition activity provided all motorized equipment used in such activity is equipped with functioning mufflers;

(j) Noise from snow blowers, snow throwers, and snow plows when operated with a muffler for the purpose of snow removal;

(k) Noise generated in situations within the jurisdiction of the Federal Occupational Safety and Health Administration;

(l) Noise generated from city sponsored or approved celebrations or events, including, but not limited to parades, outdoor concerts, festivals and athletic events;

(m) Noise generated from any secondary school and higher education sponsored or approved celebrations or events, including but not limited to, outdoor concerts or band festivals and outdoor athletic events and practices;

(n) Noise produced by a governmental body or employee thereof in the performance of any governmental function;

(o) Noise generated from athletic events or practices;

(p) Noise generated from airplanes or other piloted vehicles arriving to or departing from the Buckhannon-Upshur Airport;

(q) Noise generated from railroads operating within the city;

(r) Noise generated during events sponsored by and conducted either at the City's Public Safety Complex or Stockert Youth Center;

(s) Noise generated from fireworks authorized by the City;

(t) Noise generated during events promoted by the Buckhannon Convention and Visitors Bureau; and,

(u) Noise generated during events promoted by West Virginia Wesleyan College upon the College campus, or otherwise as authorized by the City.

(2) For purposes of the exemptions contained in Article III.C.(1)(l) and (m) hereof, all celebrations and events held during the annual West Virginia Strawberry Festival, the fall carnival activities also sponsored by the West Virginia Strawberry Festival, Buckhannon-Upshur High School's annual Homecoming, or any College sanctioned events held upon the campus of West Virginia Wesleyan College shall be presumed to be City sponsored or approved, or secondary school and higher education approved. Buckhannon Convention and Visitors Bureau events are also presumed to be "city sponsored or approved" and are specifically exempt from the foregoing prohibitions. Any list of presumed City sponsored or approved and secondary school and higher education approved celebrations and events listed under this subsection is not intended to be exclusive.

#### ARTICLE IV – MEASUREMENT, PENALTIES AND ENFORCEMENT:

(A) Any noise that exceeds a noise level of 83 dBA calculated on a distance from the point of generation of the noise source of not less than 25 feet shall be prima facie evidence of a noise prohibited by Article III. Noise resulting in a decibel reading or calculation less than 83 dBA from 25 feet also constitutes a noise prohibited by Article III if such noise otherwise constitutes a prohibited noise activity pursuant to Article III. Furthermore, there is no specific decibel measurement requirement to establish a violation of any noise prohibited by Article III.

(B) Any person found guilty before the Municipal Court of the City of Buckhannon of violating any provision of this Ordinance as defined herein shall be deemed to be guilty of a misdemeanor offense, and shall be punished by a fine as follows: \$100.00 for the first offense within a 24 month period; \$200 dollars for a second offense within a 24-month period; \$300.00 dollars for a third offense within a 24-month period; \$400.00 dollars for a fourth offense within a 24-month period and \$500.00 dollars for a fifth and each subsequent offense within a 24-month period. If the violation is of a continuing nature, each day during which said violation occurs shall constitute an additional, separate, and distinct offense.

#### ARTICLE V – FEDERAL LAW AND SEVERABILITY:

(A) The Council of the City of Buckhannon specifically recognizes the existence and application of the federal Noise Pollution and Abatement Act of 1972, popularly known and referred to as the Noise Control Act of 1972, 42 U.S.C. 4901 et seq. The provisions of this Ordinance are intended to supplement

the federal law and applicable rules and regulations established therefrom and as are administered by the U.S. Environmental Protection Agency.

(B) The provisions of this Ordinance are severable and if any provision or part thereof shall be held invalid for any reason by a court of competent jurisdiction, such invalidity shall not affect or impair any of the other provisions or parts of this Ordinance. It is hereby declared to be the intent of the City Council that this Ordinance nevertheless would have been adopted if such invalid provision or part thereof had not been included herein.

ARTICLE VI - 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., July 21, 2012.

FIRST READING: June 7, 2012

SECOND READING, PASSAGE & ADOPTION: June 21, 2012

Kenneth T. Davidson, Mayor

#### CERTIFICATE OF ENACTMENT

I, Richard C. Clemens, City Recorder, do hereby certify that the foregoing Ordinance No. 365 was lawfully ordained and enacted by the Council of the City of Buckhannon at a regular session of the said Council assembled on June 21, 2012.

Richard C. Clemens, City Recorder

#### **c. Update Regarding the Progress of Properties of Primary Concern:**

**i. 5 ½ Cooper Street-Good Neighbor Property Cleanup** – There was a fire at this property and the City donated Good Neighbor Dumpster to help with the cleanup.

**ii. Cambridge Heights – Sprinkler System Operational** – Discussion took place. No other action was necessary

**iii. 62 S. Kanawha Street- Waterline Replacement & Service Activated** – Discussion took place. No other action was necessary

**iv. 93 E Main Street-Appearance of Lot** – Discussion took place, and the Board directed Mr. Smith to follow the City ordinances and building code regarding this issue.

**v. 5 Madison Street-Appearance of Lot** – Discussion took place, and the Board directed Mr. Smith to follow the City ordinances and building code regarding this issue.

**vi. 47 Cleveland Ave-Appearance of Lot** – Discussion took place, and the Board directed Mr. Smith to follow the City ordinances and building code regarding this issue.

**vii. 16 Elizabeth Street-Appearance of Lot** - Discussion took place, and the Board directed Mr. Smith to follow the City ordinances and building code regarding this issue.

**viii. 15 Sedgwick Street-Appearance of Lot** - Discussion took place, and the Board directed Mr. Smith to follow the City ordinances and building code regarding this issue.

**ix. 44 Cleveland Avenue-Appearance of Lot** – Discussion took place. It is an uninhabitable property. Mr. Smith feels that we should initiate a condemnation process and clean the property up. Mr. O'Neill recommends that we do this through the Circuit Court. Mr. Smith asked if the City could recuperate our financial investment in doing so. Mr. O'Neill will review but advised the Board that the city should not anticipate recovering its investment.

**x. 86 Randolph St-Ownership** - Discussion took place. It is an uninhabitable property. Mr. Smith feels that we should initiate a condemnation process and clean the property up. Mr. O’Neill recommends that we do this through the Circuit Court. Mr. O’Neill will review but advised the Board that the city should not anticipate recovering its investment. The City can also look at paying the past due taxes and take ownership of the property.

**xi. 85 Elm Street-Update Fence, Tree & Shrub Removal from R.O.W.** – Discussion took place. Mayor Skinner noted that the fence will stay but everything else must be trimmed back to the fence line.

**8. Old Business Discussions**

**a. Update on the Condemnation Process** – This was discussed earlier in the meeting. See 7 ix and 7 x.

**b. Discussion Ordinance No. 367 Vacant Building Procedures for Administration & Enforcement** – Mr. O’Neill recommended asking the Health Department, Police Department and the Fire Department for assistance where there are uninhabitable properties. Mr. Smith feels that if the property does have utilities, it will be harder to declare it uninhabitable. Mr. O’Neill agrees but notes that if there are no utilities and there is an imminent threat to life and safety, we should initiate all appropriate actions to remediate the situation. The Board is in favor of Mr. Smith enforcing Ordinance No. 367 Vacant Building Procedures for Administration & Enforcement when appropriate.

**Thomas/Hollen motioned to refer to the City Council a request to direct Mr. Smith to enforce Ordinance No. 367 Vacant Building Procedures for Administration & Enforcement when appropriate. The motion carried.**

A discussion regarding a property on Florida Street that is interested in becoming a homeless shelter. Mr. Smith reported on a meeting that took place with the property owner who was informed of all the procedures that will need to be addressed. There is no indication whether it is operating currently yet there have been concerns brought forward by a citizen that it is. Mr. O’Neill feels that once we receive a written concern from a citizen, the City would have probable cause to do an inspection of the property by the BPD and BFD to determine compliance. Mrs. McKisic stated the same for the Upshur County Health Department.

**9. Report of Events, Correspondence, and Information**

**a. HEB 2025 Meeting Schedule** – This was reviewed.

- MONDAY, JULY 21, 2025
- MONDAY, OCTOBER 20, 2025

**10. Board Members’ Remarks and Announcements** – There were no Board Member remarks or announcements.

**11. Declaration of Adjournment**

**At 6:41 p.m., Thomas made a motion to adjourn.**

**Mayor Robert N. Skinner III** \_\_\_\_\_

**City Recorder Randall H. Sanders** \_\_\_\_\_