

CODIFIED ORDINANCES OF GLEN DALE

PART THREE - TRAFFIC CODE

CHAPTER ONE - Administration

- Art. 301. Definitions.
- Art. 303. Enforcement, Impounding and Penalty.
- Art. 305. Traffic Control.

CHAPTER THREE - Streets and Traffic Control Devices

- Art. 311. Street Obstructions and Special Uses.
- Art. 313. Traffic Control Devices.

CHAPTER FIVE - Vehicular Operation

- Art. 331. Crashes.
- Art. 333. Driving Under the Influence; Reckless Driving.
- Art. 335. Speed Restrictions.
- Art. 337. Driving on Right; Passing.
- Art. 339. Turning and Starting; Signals.
- Art. 341. Right of Way.
- Art. 343. Special Stops Required.
- Art. 345. Safety and Equipment.
- Art. 347. Commercial and Heavy Vehicles.
- Art. 349. Miscellaneous Rules.
- Art. 351. Licensing Generally.
- Art. 353. Commercial Drivers.
- Art. 355. Motorized Recreational Apparatus.

CHAPTER SEVEN - Parking

- Art. 361. Parking Generally.

CHAPTER NINE - Pedestrians and Bicycles

- Art. 371. Pedestrians.
- Art. 373. Bicycles.

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PART THREE - TRAFFIC CODE

CHAPTER ONE - Administration

- Art. 301. Definitions.
 Art. 303. Enforcement, Impounding and Penalty.
 Art. 305. Traffic Control.

ARTICLE 301 Definitions

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| <p>301.01 Meaning of words and phrases.
 301.02 Authorized emergency vehicle.
 301.03 Bicycle.
 301.04 Bus.
 301.05 Business district.
 301.06 Controlled-access highway.
 301.07 Crosswalk.
 301.08 Driver.
 301.081 Electric personal assistive mobility device.
 301.09 Explosives.
 301.10 Flammable liquid.
 301.11 Gross weight.
 301.12 Intersection.
 301.13 Laned roadway.
 301.14 Moped.
 301.15 Motorcycle.
 301.16 Motor-driven cycle.
 301.17 Motor vehicle.
 301.18 Owner.
 301.19 Park.
 301.20 Parking area.
 301.201 Passenger van.
 301.21 Pedestrian.
 301.22 Person.
 301.23 Pole trailer.
 301.24 Police officer.
 301.25 Private road or driveway; private property.
 301.26 Railroad.</p> | <p>301.27 Railroad sign or signal.
 301.28 Railroad train.
 301.29 Residence district.
 301.30 Residential street.
 301.31 Right of way.
 301.32 Roadway.
 301.33 Safety zone.
 301.34 School bus.
 301.35 School grounds.
 301.36 Semitrailer.
 301.37 Sidewalk.
 301.38 Stop.
 301.39 Stop, stopping or standing.
 301.40 Street or highway; alley.
 301.41 Through street or through highway.
 301.42 Traffic.
 301.43 Traffic control devices.
 301.44 Traffic control signal.
 301.45 Trailer.
 301.46 Truck.
 301.47 Vehicle.
 301.48 Wheelchair.</p> |
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CROSS REFERENCES

See sectional histories for similar State law
Speed race defined - see TRAF. 335.04

301.01 MEANING OF WORDS AND PHRASES.

The following words and phrases when used in this Traffic Code shall, for the purpose of this Traffic Code, have the meanings respectively ascribed to them in this article.
(WVaC 17C-1-1)

301.02 AUTHORIZED EMERGENCY VEHICLE.

"Authorized emergency vehicle" means vehicles of the Fire Department, duly chartered rescue squad, Police Department, ambulance service, state, county or municipal agency and such privately owned ambulances, tow trucks, wreckers, flag car services, vehicles providing road service to disabled vehicles, service vehicles of a public service corporation, postal service vehicles, snow removal equipment, Class A vehicles of firefighters, Class A vehicles of members of ambulance services, and Class A vehicles of members of duly chartered rescue squads, and all other emergency vehicles as are designated by the agency responsible for the operation and control of these persons or organizations. Class A vehicles are as defined by West Virginia Code 17A-10-1. Agency authorization and emergency equipment are defined in West Virginia Code 17C-15-26. Agencies responsible for issuing authorization for emergency vehicle permits may promulgate such regulations that are necessary for the issuance of permits for emergency vehicles.
(WVaC 17C-1-6)

301.03 BICYCLE.

"Bicycle" means every device which does not have a motor attached and which is propelled by human power upon which any person may ride, having two tandem wheels either of which is more than twenty inches in diameter.
(WVaC 17C-1-8)

301.04 BUS.

"Bus" means every motor vehicle designed for carrying more than seven passengers and used for the transportation of persons; and every motor vehicle, other than a taxicab, designed and used for the transportation of persons for compensation. (WVaC 17C-1-13)

301.05 BUSINESS DISTRICT.

"Business district" means the territory contiguous to and including a street or highway when within any 600 feet along such highway there are buildings in use for business or industrial purposes, including but not limited to hotels, banks or office buildings, railroad stations, and public buildings which occupy at least 300 feet of frontage on one side or 300 feet collectively on both sides of the street or highway.
(WVaC 17C-1-45)

301.06 CONTROLLED-ACCESS HIGHWAY.

"Controlled-access highway" means every highway, street or roadway in respect to which owners or occupants of abutting lands and other persons have no legal right of access to or from the same except at such points only and in such manner as may be determined by the public authority having jurisdiction over such highway, street or roadway.
(WVaC 17C-1-41)

301.07 CROSSWALK.

"Crosswalk" includes:

- (a) That part of a roadway at an intersection included within the connections of the lateral lines of the sidewalks on opposite sides of the street or highway measured from the curbs or, in the absence of curbs, from the edges of the traversable roadway; and
- (b) Any portion of a roadway at an intersection or elsewhere distinctly indicated for pedestrian crossing by lines or other markings on the surface. (WVaC 17C-1-43)

301.08 DRIVER.

"Driver" means every person who drives or is in actual physical control of a vehicle. (WVaC 17C-1-31)

301.081 ELECTRIC PERSONAL ASSISTIVE MOBILITY DEVICE.

"Electric personal assistive mobility device" or "EPAMD" means a self-balancing, two nontandem-wheeled device, designed to transport only one person, with an electric propulsion system with average power of seven hundred fifty watts (one horse power), whose maximum speed on a paved level surface, when powered solely by such a propulsion system while ridden by an operator who weighs one hundred seventy pounds, is less than twenty miles per hour. (WVaC 17C-1-66)

301.09 EXPLOSIVES.

"Explosives" means any chemical compound or mechanical mixture that is commonly used or intended for the purpose of producing an explosive and which contains any oxidizing and combustive units or other ingredients in such proportions, quantities or packing that an ignition by fire, by friction, by concussion, by percussion or by detonator of any part of the compound or mixture may cause such a sudden generation of highly heated gases that the resultant gaseous pressures are capable of producing destructive effects on contiguous objects or of destroying life or limb. (WVaC 17C-1-24)

301.10 FLAMMABLE LIQUID.

"Flammable liquid" means any liquid which has a flash point of seventy degrees Fahrenheit, or less, as determined by a tagliabue or equivalent closedcup test device. (WVaC 17C-1-25)

301.11 GROSS WEIGHT.

"Gross weight" means the weight of a vehicle without load plus the weight of any load thereon. (WVaC 17C-1-26)

301.12 INTERSECTION.

"Intersection" includes:

- (a) The area embraced within the prolongation or connection of the lateral curb lines or, if none, then the lateral boundary lines of the roadways of two streets or highways which join one another at, or approximately at, right angles, or the area within which vehicles traveling upon different streets or highways joining at any other angle may come in conflict; and
- (b) Where a street or highway includes two roadways thirty feet or more apart, then every crossing of each roadway of such divided street or highway by an intersecting highway shall be regarded as a separate intersection. In the event such intersecting street or highway also includes two roadways thirty feet or more apart, then every crossing of two roadways of such streets or highways shall be regarded as a separate intersection. (WVaC 17C-1-42)

301.13 LANED ROADWAY.

"Laned roadway" means a roadway which is divided into two or more clearly marked lanes for vehicular traffic.
(WVaC 17C-1-39)

301.14 MOPED.

"Moped" means every motorcycle or motor-driven cycle unless otherwise specified in this Traffic Code, which is equipped with two or three wheels, foot pedals to permit muscular propulsion and an independent power source providing a maximum of two brake horsepower. If a combustion engine is used, the maximum piston or rotor displacement shall be fifty cubic centimeters regardless of the number of chambers in such power source. The power source shall be capable of propelling the vehicle, unassisted, at a speed not to exceed thirty miles per hour on a level road surface and shall be equipped with a power drive system that functions directly or automatically only, not requiring clutching or shifting by the operator after the drive system is engaged.
(WVaC 17C-1-5a)

301.15 MOTORCYCLE.

"Motorcycle" means every motor vehicle having a seat or saddle for the use of the rider and designed to travel on not more than three wheels in contact with the ground, but excluding a tractor.
(WVaC 17C-1-4)

301.16 MOTOR-DRIVEN CYCLE.

"Motor-driven cycle" means every motorcycle having a piston displacement of more than fifty cubic centimeters but not more than 150 cubic centimeters, or with not more than five brake horsepower.
(WVaC 17C-1-5)

301.17 MOTOR VEHICLE.

"Motor vehicle" means every vehicle which is self-propelled and every vehicle which is propelled by electric power obtained from overhead trolley wires, but not operated upon rails, except motorized wheelchairs. (WVaC 17C-1-3)

301.18 OWNER.

"Owner" means a person who holds the legal title of a vehicle or in the event a vehicle is the subject of an agreement for the conditional sale or lease thereof with the right of purchase upon performance of the conditions stated in the agreement and with an immediate right of possession vested in the conditional vendee or lessee, or in the event a mortgagor of a vehicle is entitled to possession, then such conditional vendee or lessee or mortgagor shall be deemed the owner for the purpose of this Traffic Code.
(WVaC 17C-1-32)

301.19 PARK.

"Park" when prohibited, means the standing of a vehicle, whether occupied or not, otherwise than temporarily for the purpose of and while actually engaged in loading or unloading.
(WVaC 17C-1-54)

301.20 PARKING AREA.

"Parking area" means lots, areas or other accommodations for the parking of vehicles off the street or highway and open to public use with or without charge.
(WVaC 17C-1-60)

301.201 PASSENGER VAN.

"Passenger van" means any van or other motor vehicle owned by any agency, business or other legal entity and operated for the purpose of transportation of children under the age of eighteen years, other than a van utilized for private use, taxicab, bus or school bus. Passenger vans include, but are not limited to, vehicles used by daycare centers, after-school centers and nursery schools: provided, that the term "passenger van" does not include any van or other motor vehicle which is utilized for the specific purpose of transporting children to medical facilities for the purpose of medical or dental treatment and which loads and unloads the children on private property, making no stops for loading or unloading along public roads or highways.
(WVaC 17C-1-64)

301.21 PEDESTRIAN.

"Pedestrian" means any person afoot or any person using a wheelchair.
(WVaC 17C-1-30)

301.22 PERSON.

"Person" means every natural person, firm, copartnership, association or corporation.
(WVaC 17C-1-29)

301.23 POLE TRAILER.

"Pole trailer" means every vehicle without motive power designed to be drawn by another vehicle and attached to the towing vehicle by means of a reach, or pole, or by being boomed or otherwise secured to the towing vehicle and ordinarily used for transporting long or irregularly shaped loads such as poles, pipes, trusses or structural members capable, generally, of sustaining themselves as beams between the supporting connections. (WVaC 17C-1-17)

301.24 POLICE OFFICER.

"Police officer" means every officer authorized to direct or regulate traffic or to make arrests for violations of traffic regulations. (WVaC 17C-1-33)

301.25 PRIVATE ROAD OR DRIVEWAY; PRIVATE PROPERTY.

(a) "Private road" or "driveway" means every way or place in private ownership and used for vehicular travel by the owner and those having express or implied permission from the owner, but not by other persons.

(b) "Private property" means real estate in private ownership without regard to the manner in which it is used. (WVaC 17C-1-36)

301.26 RAILROAD.

"Railroad" means a carrier of persons or property, upon cars, other than streetcars, operated upon stationary rails. (WVaC 17C-1-21)

301.27 RAILROAD SIGN OR SIGNAL.

"Railroad sign" or "signal" means any sign, signal or device erected by authority of a public body or official or by a railroad and intended to give notice of the presence of railroad tracks or the approach of a railroad train. (WVaC 17C-1-49)

301.28 RAILROAD TRAIN.

"Railroad train" means a steam engine, electric or other motor, with or without cars coupled thereto, operated upon rails, except streetcars.
(WVaC 17C-1-22)

301.29 RESIDENCE DISTRICT.

"Residence district" means the territory contiguous to and including a street or highway not comprising a business district when the property on such street or highway for a distance of 300 feet or more is in the main improved with residences or residences and buildings in use for business.
(WVaC 17C-1-46)

301.30 RESIDENTIAL STREET.

"Residential street" means the entire width between the boundary lines of every way, whether publicly or privately maintained, located within any subdivision, development or other similar area used primarily for residential purposes when any part thereof is open to the common use of those living in such area for the purpose of vehicular travel.
(WVaC 17C-1-62)

301.31 RIGHT OF WAY.

"Right of way" means the privilege of the immediate use of the street or highway.
(WVaC 17C-1-51)

301.32 ROADWAY.

"Roadway" means that portion of a street or highway improved, designed or ordinarily used for vehicular travel, exclusive of the berm or shoulder. In the event a street or highway includes two or more separate roadways, the term "roadway" as used herein shall refer to any such roadway separately but not to all such roadways collectively.
(WVaC 17C-1-37)

301.33 SAFETY ZONE.

"Safety zone" means the area or space officially set apart within a roadway for the exclusive use of pedestrians and which is protected or is so marked or indicated by adequate signs as to be plainly visible at all times while set apart as a safety zone.
(WVaC 17C-1-44)

301.34 SCHOOL BUS.

"School bus" means every motor vehicle owned by a public or governmental agency and operated for the transportation of children to or from school, or privately owned and operated for compensation for the transportation of children to or from school.
(WVaC 17C-1-7)

301.35 SCHOOL GROUNDS.

"School grounds" includes the land on which a school is built together with such other land used by students for play, recreation or athletic events while attending school.
(WVaC 17C-1-55)

301.36 SEMITRAILER.

"Semitrailer" means every vehicle with or without motive power, other than a pole trailer, designed for carrying persons or property and for being drawn by a motor vehicle and so constructed that some part of its weight and that of its load rests upon or is carried by another vehicle. (WVaC 17C-1-16)

301.37 SIDEWALK.

"Sidewalk" means that portion of a street or highway between the curb lines, or the lateral lines of a roadway, and the adjacent property lines intended for the use of pedestrians.
(WVaC 17C-1-38)

301.38 STOP.

"Stop" when required, means complete cessation from movement.
(WVaC 17C-1-52)

301.39 STOP, STOPPING OR STANDING.

"Stop", "stopping," or "standing," when prohibited, means any stopping or standing of a vehicle, whether occupied or not, except when necessary to avoid conflict with other traffic or in compliance with the directions of a police officer or traffic control sign or signal.
(WVaC 17C-1-53)

301.40 STREET OR HIGHWAY; ALLEY.

(a) "Street" or "highway" means the entire width between the boundary lines of every way publicly maintained when any part thereof is open to the use of the public for purposes of vehicular travel.
(WVaC 17C-1-35)

(b) "Alley" means a street or highway intended to provide access to the rear or side of lots or buildings in urban districts and not intended for the purpose of through vehicular traffic.

301.41 THROUGH STREET OR THROUGH HIGHWAY.

"Through street" or "through highway" means every street or highway or portion thereof at the entrances to which vehicular traffic from intersecting streets or highways is required by law to stop before entering or crossing the same and when stop signs are erected as provided in this Traffic Code.
(WVaC 17C-1-40)

301.42 TRAFFIC.

"Traffic" means pedestrians, ridden or herded animals, vehicles, streetcars and other conveyances either singly or together while using any street or highway for purposes of travel.
(WVaC 17C-1-50)

301.43 TRAFFIC CONTROL DEVICES.

"Traffic control device" means any sign, signal, marking and device not inconsistent with this Traffic Code placed or erected by authority of a public body or official having jurisdiction, for the purpose of regulating, warning or guiding traffic.
(WVaC 17C-1-47)

301.44 TRAFFIC CONTROL SIGNAL.

"Traffic control signal" means any device, whether manually, electrically or mechanically operated, by which traffic is alternately directed to stop and to proceed.
(WVaC 17C-1-48)

301.45 TRAILER.

"Trailer" means every vehicle with or without motive power, other than a pole trailer, designed for carrying persons or property and for being drawn by a motor vehicle and so constructed that no part of its weight rests upon the towing vehicle.

(WVaC 17C-1-15)

301.46 TRUCK.

"Truck" means every motor vehicle designed, used or maintained primarily for the transportation of property.

(WVaC 17C-1-12)

301.47 VEHICLE.

"Vehicle" means every device in, upon or by which any person or property is or may be transported or drawn upon a street or highway, except devices moved by human power or used exclusively upon stationary rails or tracks or wheelchairs.

(WVaC 17C-1-2)

301.48 WHEELCHAIR.

"Wheelchair" means a motorized or nonmotorized wheeled device designed for, and used by, a person with disabilities that is incapable of a speed in excess of eight miles per hour.

(WVaC 17C-1-65)

ARTICLE 303
Enforcement, Impounding and Penalty

<p>303.01 Authority of Police and Fire Department officials.</p> <p>303.02 Application to vehicles upon streets and highways; exceptions.</p> <p>303.03 Obedience to police officers; fleeing.</p> <p>303.04 Application to government vehicles; exception.</p> <p>303.05 Authorized emergency vehicles.</p> <p>303.06 Application to persons riding animals or driving animal-drawn vehicles.</p>	<p>303.07 Impounding of vehicles; redemption.</p> <p>303.08 Rights of owners of real property.</p> <p>303.09 Traffic violation citations; warning citation.</p> <p>303.10 Record of traffic violations.</p> <p>303.11 Interfering with City employees.</p> <p>303.12 Parties to a crime.</p> <p>303.13 Offenses by persons owning or controlling vehicles.</p> <p>303.99 Penalty.</p>
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CROSS REFERENCES

See sectional histories for similar State law
Disposition of abandoned vehicles - see W. Va. Code
17-24-5 et seq.
Uniform application of West Virginia traffic law - see
W. Va. Code 17C-2-7
Power of local authorities - see W. Va. Code 17C-2-8

303.01 AUTHORITY OF POLICE AND FIRE DEPARTMENT OFFICIALS.

(a) It shall be the duty of the officers of the Police Department to enforce all street traffic laws of this Municipality and all of the State vehicle laws applicable to street traffic in this Municipality.

(b) Officers of the Police Department are hereby authorized to direct all traffic by voice, hand or signal in conformance with traffic laws; provided that in the event of a fire or other emergency or to expedite traffic or to safeguard pedestrians, officers of the Police Department may direct traffic as conditions may require notwithstanding the provisions of the traffic laws.

(c) Officers of the Fire Department, when at the scene of a fire, may direct or assist the police in directing traffic thereat or in the immediate vicinity.

303.02 APPLICATION TO VEHICLES UPON STREETS AND HIGHWAYS; EXCEPTIONS.

The provisions of this Traffic Code relating to the operation of vehicles refer exclusively to the operation of vehicles upon streets and highways except:

- (a) Where a different place is specifically referred to in a given section.
- (b) The provisions of this Traffic Code except Article 347 shall apply upon streets and highways as defined in Section 351.06.
(WVaC 17C-2-1)

303.03 OBEDIENCE TO POLICE OFFICERS; FLEEING.

(a) No person shall willfully fail or refuse to comply with a lawful order or direction of any police officer or designated special officer invested by law with authority to direct, control or regulate traffic.
(WVaC 17C-2-3(c))

(b) No person shall operate a vehicle so as to willfully elude or flee a police officer or designated special officer after receiving a visible or audible signal from such an officer to bring his vehicle to a stop.

303.04 APPLICATION TO GOVERNMENT VEHICLES; EXCEPTION.

(a) The provisions of this Traffic Code applicable to the drivers of vehicles upon the streets or highways shall apply to the drivers of all vehicles owned or operated by the United States, this State, or any county, Municipality, town, district or any other political subdivision of the State, except as provided in this section and subject to such specific exceptions as are set forth in this Traffic Code with reference to authorized emergency vehicles.

(b) Unless specifically made applicable, the provisions of this Traffic Code shall not apply to persons, teams, motor vehicles and other equipment while actually engaged in work upon the surface of a street or highway but shall apply to such persons and vehicles when traveling to or from such work.
(WVaC 17C-2-4)

303.05 AUTHORIZED EMERGENCY VEHICLES.

(a) The driver of an authorized emergency vehicle, when responding to an emergency call or when in the pursuit of an actual or suspected violator of the law or when responding to but not upon returning from a fire alarm, may exercise the privileges set forth in this section, but subject to the conditions herein stated.

- (b) The driver of an authorized emergency vehicle may:
- (1) Park or stand, irrespective of the provisions of this Traffic Code;
 - (2) Proceed past a red or stop signal or stop sign, but only after slowing down as may be necessary for safe operation;
 - (3) Exceed the speed limits so long as he does not endanger life or property;
 - (4) Disregard regulations governing direction of movement or turning in specified directions.

(c) The exemptions herein granted to an authorized emergency vehicle shall apply only when the driver of any such vehicle while in motion sounds audible signal by bell, siren or exhaust whistle as may be reasonably necessary, and when the vehicle is equipped with at least one lighted flashing lamp as authorized by Section 345.18 which is visible under normal atmospheric conditions from a distance of 500 feet to the front of such vehicle, except that an authorized emergency vehicle operated as a police vehicle need not be equipped with or display a warning light visible from in front of the vehicle.

(d) The foregoing provisions shall not relieve the driver of an authorized emergency vehicle from the duty to drive with due regard for the safety of all persons, nor shall such provisions protect the driver from the consequences of his reckless disregard for the safety of others.
(WVaC 17C-2-5)

303.06 APPLICATION TO PERSONS RIDING ANIMALS OR DRIVING ANIMAL-DRAWN VEHICLES.

Every person riding an animal or driving any animal-drawn vehicle upon a roadway shall be granted all of the rights and shall be subject to all of the duties applicable to the driver of a vehicle by this Traffic Code, except those provisions of this Traffic Code which by their very nature can have no application.
(WVaC 17C-2-6)

303.07 IMPOUNDING OF VEHICLES; REDEMPTION.

Police officers are authorized to provide for the removal and impounding of a vehicle under the following circumstances:

- (a) When any vehicle is left unattended upon any street, bridge or causeway and is so illegally parked so as to constitute a hazard or obstruction to the normal movement of traffic, or so as to unreasonably interfere with street cleaning or snow removal operations.
- (b) When any vehicle has been abandoned or junked on private or public property as provided in West Virginia Code Article 17-24.
- (c) When any vehicle has been stolen or operated without the consent of the owner.
- (d) When any vehicle displays illegal license plates or fails to display the current lawfully required license plates.
- (e) When any vehicle has been used in or connected with the commission of a felony.
- (f) When any vehicle has been damaged or wrecked so as to be inoperable or violates equipment provisions of this Traffic Code or West Virginia Code Article 17C-15 whereby its continued operation would constitute a condition hazardous to life, limb or property.
- (g) When any vehicle is left unattended due to the removal of an ill, injured or arrested operator.
- (h) When any vehicle has been operated by any person who has failed to stop in case of a crash or collision.
- (i) When any vehicle has been operated by any person who is driving without a lawful license or while his license has been suspended or revoked.

- (j) When any vehicle is found for which two or more citation tags for violations of this Traffic Code have been issued and the owner or operator thereof has failed to respond to such citation tags as lawfully required.

Any vehicle removed under authority of subsection (b) hereof shall be disposed of as provided under West Virginia Code Article 17-24. Any other vehicle removed under authority of this section shall be ordered into storage and the Police Department shall forthwith notify the registered vehicle owner of the fact of such removal and impounding, reasons therefor and the place of storage. Any person desiring to redeem an impounded vehicle shall appear at the Police Department to furnish satisfactory evidence of identity and ownership or right to possession. Prior to issuance of a release form, the claimant, owner or operator shall either pay the amount due for any fines for violations on account of which such vehicle was impounded or, as the court may require, post a bond in an amount set by the court, to appear to answer to such violations. The pound operator shall release such vehicle upon the receipt of the release form and payment of all towage and storage charges.

303.08 RIGHTS OF OWNERS OF REAL PROPERTY.

Nothing in this Traffic Code shall be construed to prevent an owner of real property used by the public for purposes of vehicular travel by permission of the owner and not as matter of right from prohibiting such use, or from requiring other or different or additional conditions than those specified in this Traffic Code, or otherwise regulating such use as may seem best to such owner. (WVaC 17C-2-9)

303.09 TRAFFIC VIOLATION CITATIONS; WARNING CITATION.

The Chief of the Police Department is authorized and directed to supply police officers with tags or tickets for warning citations in addition to the tags or tickets used for traffic violation citations.

Warning citations may be issued only for the following offenses and in the following circumstances:

- (a) Minor speeding violations.
- (b) Disobedience of traffic signs or signals within a ten-day period immediately after the installation thereof, where such disobedience is unintentional.
- (c) Defective vehicle violations which defects do not pose an immediate grave danger to safety. Such a warning citation shall order the repair of the defects within five days or less, after which period the violator will be subject to arrest.
- (d) Expired operator's license, expired registration plates and expired inspection sticker violations occurring within ten days of such expiration.

Provided, however, that no more than two warning citations shall be issued to an individual within a ninety-day period, and in no event shall more than one warning for the same offense be issued to an individual within a ninety-day period. Provided further that no warning citations shall be allowable where multiple violations occur during the same transaction or occurrence.

The Chief of Police shall have the authority to establish the procedure, for the form, issuance, filing and checking of warning citations, and to change the same from time to time. (1987 Code 15A-2-8)

303.10 RECORD OF TRAFFIC VIOLATIONS.

It shall be the duty of the Clerk of the Municipal Court to keep a record of every traffic complaint or other legal form of traffic charge deposited with or presented to the Municipal Court. The Clerk shall keep a record of every official action by the Court with respect to traffic violations, including but not limited to, a record of every conviction, forfeiture of bail, judgment of acquittal and the amount of fine or forfeiture resulting from every traffic complaint deposited with or presented to such Court.

(1987 Code 15A-2-9)

303.11 INTERFERING WITH CITY EMPLOYEES.

No driver or operator of any vehicle shall interfere in any manner with the employees of the City in the discharge of their duties. Sufficient room shall at all times be given to such employees to continue their work without interruption.

(1987 Code 15A-2-10)

303.12 PARTIES TO A CRIME.

Every person who commits, attempts to commit, conspires to commit, or knowingly aids or abets in the commission of, any act declared herein to be a crime, whether individually or in connection with one or more other persons or as a principal, agent or accessory, shall be guilty of such offense, and every person who falsely, fraudulently, forcibly or willfully induces, causes, coerces, requires, permits or directs another to violate any provision of this Traffic Code is likewise guilty of such offense.

(1987 Code 15A-2-12)

303.13 OFFENSES BY PERSONS OWNING OR CONTROLLING VEHICLES.

It is unlawful for the owner, or any other person, employing or otherwise directing the driver of any vehicle to require or knowingly to permit the operation of such vehicle upon a highway in any manner contrary to law.

If the owner of a motor vehicle is present in the vehicle at the time when another driver is operating the vehicle upon the highways of this City:

- (1) With defective or improper equipment in violation of Article 345;
- (2) In violation of the weight, height, length or width provisions of Article 347;
- (3) With improper registration in violation of Article 351; or
- (4) With an expired vehicle inspection decal or certificate in violation of Section 345.32,

the owner rather than the driver shall be arrested for any violation enumerated herein in lieu of an arrest of the driver. If the owner of the vehicle is not present therein, then the driver shall be arrested for any violation enumerated in this section.

(1987 Code 15A-2-13)

303.99 PENALTY.

Whoever violates any provision of this Traffic Code for which no other penalty is provided shall be fined not more than five hundred dollars (\$500.00).

**ARTICLE 305
Traffic Control**

**305.01 Authority of Council as to
traffic control signs.**

CROSS REFERENCES

Uniformity with State law required - see W. Va. Code
17C-2-7

Powers of Municipality - see W. Va. Code 17C-2-8

**305.01 AUTHORITY OF COUNCIL AS TO TRAFFIC CONTROL
SIGNS.**

Any sign erected by Council pursuant to authority contained in this Traffic Code may be ordered changed or removed by Council; and nothing in this Traffic Code shall be construed as limiting the authority of Council from directing that traffic control signs be erected in such form and at such places as Council may deem proper.
(1987 Code 15A-3-1)

CHAPTER THREE - Streets and Traffic Control Devices
 Art. 311. Street Obstructions and Special Uses.
 Art. 313. Traffic Control Devices.

ARTICLE 311
Street Obstructions and Special Uses

- | | | | |
|---------------|--|---------------|--|
| 311.01 | Placing injurious material in street. | 311.04 | Parades and assemblages. |
| 311.02 | Play streets. | 311.05 | Roller skates, bicycles, etc. on sidewalks. |
| 311.03 | Toy vehicles on streets. | 311.99 | Penalty. |

CROSS REFERENCES

See sectional histories for similar State law
 Authority to prohibit littering in streets - see
 W. Va. Code 8-12-5(3)
 Authority to regulate processions or assemblages -
 see W. Va. Code 17C-2-8(a)(3)
 Dropping, leaking loads - see TRAF. 347.04

311.01 PLACING INJURIOUS MATERIAL IN STREET.

(a) No person shall throw or deposit upon any street or highway any glass bottle, glass, nails, tacks, wire, cans or any other substance likely to injure any person, animal or vehicle upon such street or highway.

(b) Any person who drops, or permits to be dropped or thrown, upon any street or highway any destructive or injurious material shall immediately remove the same or cause it to be removed.

(c) Any person removing a wrecked or damaged vehicle from a street or highway shall remove any glass or other injurious substance dropped upon the street or highway from such vehicle.
 (WVaC 17C-14-11)

(d) No person shall throw, place or deposit upon any street or highway any material, article or substance which injures or damages, or is likely to injure or damage, the street or highway.

311.02 PLAY STREETS.

(a) No person shall use the public streets, highways, alleys, thoroughfares, roads or avenues of the Municipality for the purpose of engaging in or playing any games or athletic activities, except public ways specifically set aside for such purposes.

(b) When authorized signs are erected indicating any street or part thereof as a play street, no person shall drive a vehicle upon any such street or highway or portion thereof except drivers of vehicles having business or whose residence is within such closed area, and then any such driver shall exercise the greatest care in driving upon any such street or highway or portion thereof.

311.03 TOY VEHICLES ON STREETS.

No person on roller skates or riding in or by means of any sled, toy vehicle, skateboard or similar device shall go upon any roadway except while crossing a street on a crosswalk and except on streets set aside as play streets.

311.04 PARADES AND ASSEMBLAGES.

No person, group of persons or organization shall conduct or participate in any parade, assemblage or procession other than a funeral procession upon any street or highway, or block off any street or highway area, without first obtaining a permit from the Police Chief.

Applications for such permit shall be made on such forms as may be prescribed and shall contain such information as is reasonably necessary to a fair determination of whether a permit should be issued. Applications shall be filed not less than five days before the time intended for such parade, procession or assemblage.

The permit may be refused or canceled if:

- (a) The time, place, size or conduct of the parade including the assembly areas and route of march would unreasonably interfere with the public convenience and safe use of the streets and highways.
- (b) The parade would require the diversion of so great a number of police officers to properly police the line of movement, assembly area and areas contiguous thereto so as to deny normal police protection to the Municipality.
- (c) The parade route of march or assembly areas would unreasonably interfere with the movement of police vehicles, fire fighting equipment or ambulance service to other areas of the Municipality.
- (d) The parade would unreasonably interfere with another parade for which a permit has been issued.
- (e) The information contained in the application is found to be false, misleading or incomplete in any material detail.
- (f) An emergency such as a fire or storm would prevent the proper conduct of the parade.

The permit or any order accompanying it may limit or prescribe reasonable conditions, including the hours, the places of assembly and of dispersal, the route of march or travel and the streets, highways or portions thereof which may be used or occupied.

311.05 ROLLER SKATES, BICYCLES, ETC. ON SIDEWALKS.

No person shall use roller skates, coasters, tricycles, small wagons or any other device of similar nature on wheels or runners, on any sidewalk in such a manner as to become a nuisance or so as to endanger life, limb or property.

(1987 Code 15B-1-5)

311.99 PENALTY.

(EDITOR'S NOTE: See Section 303.99 for general Traffic Code penalty.)

ARTICLE 313
Traffic Control Devices

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|--|--|
| <p>313.01 Obedience to traffic control devices.</p> <p>313.02 Obedience to traffic control instructions at street construction.</p> <p>313.03 Traffic control signal terms and lights.</p> <p>313.04 Pedestrian control signals.</p> | <p>313.05 Flashing traffic signals.</p> <p>313.06 Unauthorized signs and signals, hiding from view, advertising.</p> <p>313.07 Alteration, injury, removal of traffic control devices.</p> <p>313.08 Traffic violations in construction zones.</p> <p>313.99 Penalty.</p> |
|--|--|

CROSS REFERENCES

See sectional histories for similar State law
 Authority to place traffic control devices - see
 W. Va. Code 17C-2-8(a)(2), 17C-3-3
 Placing traffic control devices on State highways -
 see W. Va. Code 17C-2-8(b), 17C-3-2
 Local regulations requiring traffic control devices -
 see W. Va. Code 17C-2-8(c)
 Traffic control devices defined - see TRAF. 301.43
 Traffic control signal defined - see TRAF. 301.44

313.01 OBEDIENCE TO TRAFFIC CONTROL DEVICES.

(a) The driver of any vehicle shall obey the instructions of any official traffic control device applicable thereto placed in accordance with the provisions of this Traffic Code, unless otherwise directed by a traffic or police officer, subject to the exceptions granted the driver of an authorized emergency vehicle in this Traffic Code.

(b) No provision of this Traffic Code for which signs are required shall be enforced against an alleged violator if at the time and place of the alleged violation an official sign is not in proper position and sufficiently legible to be seen by an ordinarily observant person. Whenever a particular section does not state that signs are required, such section shall be effective even though no signs are erected or in place.

(WVaC 17C-3-4)

313.02 OBEDIENCE TO TRAFFIC CONTROL INSTRUCTIONS AT STREET CONSTRUCTION.

The driver of any vehicle shall obey the traffic-control instructions of any law enforcement officer or persons authorized by the Commissioner of Highways or by proper local authorities to operate traffic control devices, act as flagmen or operate authorized vehicles engaged in work at or near the site of street or highway construction maintenance work, for the purpose of regulating, warning or guiding traffic, subject to the exceptions granted the driver of an authorized emergency vehicle in this Traffic Code.

(WVaC 17C-3-4a)

313.03 TRAFFIC CONTROL SIGNAL TERMS AND LIGHTS.

Whenever traffic is controlled by traffic control signals exhibiting the words "go," "caution" or "stop," or exhibiting different colored lights successively one at a time, or with arrows, the following colors only shall be used and such terms and lights shall indicate and apply to drivers of vehicles and pedestrians as follows:

- (a) Green alone or "go":
 - (1) Vehicular traffic facing the signal, except when prohibited under Section 343.02, may proceed straight through or turn right or left unless a sign at such place prohibits either such turn. But vehicular traffic, including vehicles turning right or left, shall yield the right of way to other vehicles and to pedestrians lawfully within the intersection or an adjacent crosswalk at the time such signal is exhibited.
 - (2) Pedestrians facing the signal may proceed across the roadway within any marked or unmarked crosswalk.
- (b) Yellow alone or "caution" when showing following the green or "go" signal:
 - (1) Vehicular traffic facing the signal is thereby warned that the red or "stop" signal will be exhibited immediately thereafter and such vehicular traffic shall not enter or be crossing the intersection when the red or "stop" signal is exhibited.
 - (2) Pedestrians facing such signal are thereby advised that there is insufficient time to cross the roadway, and any pedestrian then starting to cross shall yield the right of way to all vehicles.
- (c) Red alone or "stop".
 - (1) Vehicular traffic facing the signal shall stop before entering the crosswalk on the near side of the intersection or, if none, then before entering the intersection and shall remain standing until green or "go" is shown alone except as provided in subsection (c)(2) and (3) hereof.
 - (2) A vehicle which is stopped in obedience to a red or "stop" signal as close as practicable at the entrance to the crosswalk on the near side of the intersection or, if none, then at the entrance to the intersection, may cautiously make a right turn but such vehicle shall yield the right of way to pedestrians lawfully within a crosswalk and to other vehicular traffic proceeding as directed by the signal at such intersection, except that Council may by ordinance prohibit any such right turn against a red or "stop" signal at any intersection which ordinance shall be effective when a sign is erected at such intersection giving notice thereof.

- (3) A vehicle which is stopped in obedience to a red or "stop" signal as close as practicable at the entrance to the crosswalk on the near side of the intersection or, if none, then at the entrance to the intersection on a one-way street which intersects another one-way street on which traffic moves to the left, may cautiously make a left turn into the one-way street but such vehicle shall yield the right of way to pedestrians lawfully within a crosswalk and to other vehicular traffic proceeding as directed by the signal at such intersection, except that Council may by ordinance prohibit any such left turn against a red or "stop" signal at any intersection, which ordinance shall be effective when a sign is erected at such intersection giving notice thereof.
- (4) No pedestrian facing such signal shall enter the roadway unless he can do so safely and without interfering with any vehicular traffic.
- (d) Red with green arrow:
 - (1) Vehicular traffic facing such signal may cautiously enter the intersection only to make the movement indicated by such arrow but shall yield the right of way to pedestrians lawfully within a crosswalk and to other traffic lawfully using the intersection.
 - (2) No pedestrian facing such signal shall enter the roadway unless he can do so safely and without interfering with any vehicular traffic.
- (e) In the event an official traffic control signal is erected and maintained at a place other than an intersection, the provisions of this section shall be applicable except as to those provisions which by their nature can have no application. Any stop required shall be made at a sign or marking on the pavement indicating where the stop shall be made, but in the absence of any such sign or marking the stop shall be made at the signal.
(Ord. 4-28-03.)

313.04 PEDESTRIAN CONTROL SIGNALS.

Whenever special pedestrian control signals exhibiting the words "walk" or "wait" are in place such signals shall indicate as follows:

- (a) Walk. Pedestrians facing such signal may proceed across the roadway in the direction of the signal and shall be given the right of way by the drivers of all vehicles.
- (b) Wait. No pedestrian shall start to cross the roadway in the direction of such signal, but any pedestrian who has partially completed his or her crossing on the walk signal shall proceed to a sidewalk or safety island while the wait signal is showing.
(WVaC 17C-3-6)

313.05 FLASHING TRAFFIC SIGNALS.

Whenever an illuminated flashing red or yellow signal is used in a traffic sign or signal it shall require obedience by vehicular traffic as follows:

- (a) Flashing Red (Stop Signal). When a red lens is illuminated with rapid intermittent flashes, drivers of vehicles shall stop before entering the nearest crosswalk at an intersection or at a limit line when marked, or, if none, then before entering the intersection and the right to proceed shall be subject to the rules applicable after making a stop at a stop sign.
- (b) Flashing Yellow (Caution Signal). When a yellow lens is illuminated with rapid intermittent flashes, drivers of vehicles may proceed through the intersection or past such signal only with caution.
(WVaC 17C-3-7)

313.06 UNAUTHORIZED SIGNS AND SIGNALS, HIDING FROM VIEW, ADVERTISING.

(a) No local authority or person shall place, maintain or display upon or in view of any street or highway any unauthorized traffic control device or traffic control signal, or any unauthorized sign, signal, marking or device which purports to be or is an imitation of or resembles an official traffic control device or railroad sign or signal, or which attempts to direct the movement of traffic or which hides from view or interferes with the effectiveness of any official traffic control device or any railroad sign or signal, and no person shall place or maintain nor shall any public authority permit upon any street or highway any traffic control device bearing thereon any commercial advertising. This shall not be deemed to prohibit the erection upon private property adjacent to a street or highway of signs giving useful directional information and of a type that cannot be mistaken for official signs.

(b) Every such prohibited device, signal, sign or marking is hereby declared to be a public nuisance and the Commissioner of Highways or other authority having jurisdiction over the street or highway is hereby empowered to remove the same or cause it to be removed without notice.
(WVaC 17C-3-8)

313.07 ALTERATION, INJURY, REMOVAL OF TRAFFIC CONTROL DEVICES.

No person shall without lawful authority attempt to or in fact alter, deface, injure, knock down or remove any official traffic control device or any railroad sign or signal or any inscription, shield or insignia thereon, or any other part thereof.
(WVaC 17C-3-9)

313.08 TRAFFIC VIOLATIONS IN CONSTRUCTION ZONES.

(a) At each and every location where street or highway construction work is to be conducted a sign shall be posted at least 1,000 feet from the construction site, or as close to 1,000 feet from the construction site as is practicable given the location of the site when workers are present, notifying all motorists as to the speed limit and displaying the words "construction work".

(b) No person shall violate any posted speed restriction or traffic restriction at such construction site referred to in subsection (a) of this section.

(c) Nothing in this section shall be construed to preclude prosecution of any operator of a motor vehicle who commits a violation of any other provision of this Traffic Code for such violation.
(WVaC 17C-3-4b)

313.99 PENALTY.

(EDITOR'S NOTE: See Section 303.99 for general Traffic Code penalty.)

CHAPTER FIVE - Vehicular Operation

- Art. 331. Crashes.
- Art. 333. Driving Under the Influence; Reckless Driving.
- Art. 335. Speed Restrictions.
- Art. 337. Driving on Right; Passing.
- Art. 339. Turning and Starting; Signals.
- Art. 341. Right of Way.
- Art. 343. Special Stops Required.
- Art. 345. Safety and Equipment.
- Art. 347. Commercial and Heavy Vehicles.
- Art. 349. Miscellaneous Rules.
- Art. 351. Licensing Generally.
- Art. 353. Commercial Drivers.
- Art. 355. Motorized Recreational Apparatus.

ARTICLE 331
Crashes

- | | |
|---|---|
| <p>331.01 Crashes involving death or personal injuries.</p> <p>331.02 Crashes involving damage to vehicle.</p> <p>331.03 Duty to give information and render aid.</p> <p>331.04 Collision with unattended vehicle.</p> <p>331.05 Collision with fixtures upon a street or highway.</p> | <p>331.06 Immediate reports of crashes.</p> <p>331.07 When driver unable to report.</p> <p>331.08 Garages to report bullet damage.</p> <p>331.09 Written reports to City.</p> <p>331.99 Penalty.</p> |
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CROSS REFERENCES

See sectional histories for similar State law
 Authority to require local crash report - see
 W. Va. Code 17C-4-15
 Impounding wrecked vehicles - see TRAF. 303.07
 Removal of glass, etc. from highway - see TRAF. 311.01

331.01 CRASHES INVOLVING DEATH OR PERSONAL INJURIES.

(a) The driver of any vehicle involved in a crash resulting in injury to or death of any person shall immediately stop the vehicle at the scene of the crash or as close thereto as possible but shall then forthwith return to and shall remain at the scene of the crash until he or she has complied with the requirements of Section 331.03; provided, that the driver may leave the scene of the crash as may reasonably be necessary for the purpose of rendering assistance to an injured person as required by Section 331.03. Every such stop shall be made without obstructing traffic more than is necessary.

(b) Any person violating the provisions of subsection (a) of this section after being involved in a crash resulting in the death of any person is guilty of a felony and shall be prosecuted under appropriate State law.

(c) Any person violating the provisions of subsection (a) of this section after being involved in a crash resulting in physical injury to any person is guilty of a misdemeanor, and subject to the penalty provided in this Traffic Code.
(WVaC 17C-4-1)

331.02 CRASHES INVOLVING DAMAGE TO VEHICLE.

The driver of any vehicle involved in a crash resulting only in damage to a vehicle which is driven or attended by any person shall immediately stop such vehicle at the scene of such crash or as close thereto as possible but shall forthwith return to and in every event shall remain at the scene of such crash until he has fulfilled the requirements of Section 331.03. Every such stop shall be made without obstructing traffic more than is necessary. Any person failing to stop or comply with such requirements under such circumstances shall be guilty of a misdemeanor.
(WVaC 17C-4-2)

331.03 DUTY TO GIVE INFORMATION AND RENDER AID.

The driver of any vehicle involved in a crash resulting in injury to or death of any person or damage to any vehicle which is driven or attended by any person shall give his or her name, address and the registration number of the vehicle he or she is driving and shall upon request and if available exhibit his or her driver's license to the person struck or the driver or occupant of or person attending any vehicle collided with and shall render to any person injured in such crash reasonable assistance, including the carrying, or the making arrangements for the carrying of such person to a physician, surgeon or hospital for medical or surgical treatment if it is apparent that such treatment is necessary or if such carrying is requested by the injured person.
(WVaC 17C-4-3)

331.04 COLLISION WITH UNATTENDED VEHICLE.

The driver of any vehicle which collides with any vehicle which is unattended shall immediately stop and shall then and there either locate and notify the operator or owner of such vehicle of the name and address of the driver and owner of the vehicle striking the unattended vehicle or shall leave in a conspicuous place in the vehicle struck a written notice giving the name and address of the driver and of the owner of the vehicle doing the striking and a statement of the circumstances thereof. (WVaC 17C-4-4)

331.05 COLLISION WITH FIXTURES UPON A STREET OR HIGHWAY.

The driver of any vehicle involved in a crash resulting only in damage to fixtures or other property legally upon or adjacent to a highway shall take reasonable steps to locate and notify the owner or person in charge of such property of such fact and of his or her name and address and of the registration number of the vehicle he or she is driving and shall upon request and if available exhibit his or her driver's license and shall make report of such crash when and as required. (WVaC 17C-4-5)

331.06 IMMEDIATE REPORTS OF CRASHES.

The driver of a vehicle involved in a crash resulting in injury to or death of any person or total property damage to an apparent extent of one thousand dollars (\$1,000) or more shall immediately by the quickest means of communication, give notice of such crash to the Police Department. (WVaC 17C-4-6)

331.07 WHEN DRIVER UNABLE TO REPORT.

Whenever the driver of a vehicle is physically incapable of making an immediate notification of a crash as required in Section 331.06 and there was another occupant in the vehicle at the time of the crash capable of making a notification, such occupant shall make or cause to be made such notification not made by the driver.
(WVaC 17C-4-8)

331.08 GARAGES TO REPORT BULLET DAMAGE.

The person in charge of any garage or repair shop to which is brought any motor vehicle which shows evidence of having been struck by any bullet, shall report to the Police Department within twenty-four hours after such motor vehicle is received, giving the engine number, registration number, and the name and address of the owner or operator of such vehicle.
(WVaC 17C-4-12)

331.09 WRITTEN REPORTS TO CITY.

The driver of any vehicle involved in any accident of which he is required to file a report with the Commissioner of Motor Vehicles of West Virginia shall also file a copy of such report with the Chief of Police, at the same time and in the same manner as he files the report to the Commissioner of Motor Vehicles.
(1987 Code 15C-1-9)

331.99 PENALTY.

(EDITOR'S NOTE: See Section 303.99 for general Traffic Code penalty.)

Any person violating the provisions of Section 331.01 after being involved in a crash resulting in physical injury but not death to any person shall be imprisoned for not more than thirty days, or fined not more than one thousand dollars (\$1,000) or both.
(WVaC 17C-4-1)

ARTICLE 333
Driving Under the Influence; Reckless Driving

333.01 Driving under the influence.
333.02 Reckless driving.

333.03 Hazardous driving.
333.99 Penalty.

CROSS REFERENCES

See sectional histories for similar State law
Authority to prohibit driving under the influence -
see W. Va. Code 8-12-5(21)
Compliance with State law - see W. Va. Code 17C-5-11a
Implied consent - see W. Va. Code 17C-5A

333.01 DRIVING UNDER THE INFLUENCE.

- (a) Any person who:
- (1) Drives a vehicle in this Municipality while he or she:
 - A. Is under the influence of alcohol;
 - B. Is under the influence of any controlled substance;
 - C. Is under the influence of any other drug;
 - D. Is under the combined influence of alcohol and any controlled substance or any other drug; or
 - E. Has an alcohol concentration in his or her blood of eight hundredths of one percent or more, by weight; and
 - (2) While driving does any act forbidden by law or fails to perform any duty imposed by law in the driving of the vehicle, which act or failure proximately causes the death of any person within one year next following the act or failure, is guilty of a misdemeanor, and shall be confined in jail for not less than ninety days nor more than one year and shall be fined not less than five hundred dollars (\$500.00) nor more than one thousand dollars (\$1,000).
- (b) Any person who:
- (1) Drives a vehicle in this Municipality while he or she:
 - A. Is under the influence of alcohol;
 - B. Is under the influence of any controlled substance;
 - C. Is under the influence of any other drug;
 - D. Is under the combined influence of alcohol and any controlled substance or any other drug; or
 - E. Has an alcohol concentration in his or her blood of eight hundredths of one percent or more, by weight; and

- (2) While driving does any act forbidden by law or fails to perform any duty imposed by law in the driving of the vehicle, which act or failure proximately causes bodily injury to any person other than himself or herself, is guilty of a misdemeanor, and shall be confined in jail for not less than one day nor more than one year, which jail term shall include actual confinement of not less than twenty-four hours and shall be fined not less than two hundred dollars (\$200.00) nor more than one thousand dollars (\$1,000).
- (c) Any person who:
- (1) Drives a vehicle in this Municipality while he or she:
- A. Is under the influence of alcohol;
 - B. Is under the influence of any controlled substance;
 - C. Is under the influence of any other drug;
 - D. Is under the combined influence of alcohol and any controlled substance or any other drug; or
 - E. Has an alcohol concentration in his or her blood of eight hundredths of one percent or more, by weight, but less than fifteen hundredths of one percent, by weight;
- (2) Is guilty of a misdemeanor, and, except as provided in West Virginia Code 17C-5-2(b), shall be confined in jail up to six months and shall be fined not less than one hundred dollars (\$100.00) nor more than five hundred dollars (\$500.00). A person sentenced pursuant to this subsection shall receive credit for any period of actual confinement he or she served upon arrest for the subject offense.
- (d) Any person who drives a vehicle in this Municipality while he or she has an alcohol concentration in his or her blood of fifteen hundredths of one percent or more, by weight, is guilty of a misdemeanor and, upon conviction thereof, shall be confined in jail for not less than two days nor more than six months, which jail term is to include actual confinement of not less than twenty-four hours, and shall be fined not less than two hundred dollars (\$200.00) nor more than one thousand dollars (\$1,000). A person sentenced pursuant to this subsection shall receive credit for any period of actual confinement he or she served upon arrest for the subject offense.
- (e) Any person who, being an habitual user of narcotic drugs or amphetamine or any derivative thereof, drives a vehicle in this Municipality, is guilty of a misdemeanor, and shall be confined in jail for not less than one day nor more than six months, which jail term shall include actual confinement of not less than twenty-four hours, and shall be fined not less than one hundred dollars (\$100.00) nor more than five hundred dollars (\$500.00). A person sentenced pursuant to this subsection shall receive credit for any period of actual confinement he or she served upon arrest for the subject offense.
- (f) Any person who:
- (1) Knowingly permits his or her vehicle to be driven in this Municipality by any other person who:
- A. Is under the influence of alcohol;
 - B. Is under the influence of any controlled substance;
 - C. Is under the influence of any other drug;
 - D. Is under the combined influence of alcohol and any controlled substance or any other drug; or
 - E. Has an alcohol concentration in his or her blood of eight hundredths of one percent or more, by weight;

- (2) Is guilty of a misdemeanor and shall be confined in jail for not more than six months and shall be fined not less than one hundred dollars (\$100.00) nor more than five hundred dollars (\$500.00).

(g) Any person who knowingly permits his or her vehicle to be driven in this Municipality by any other person who is an habitual user of narcotic drugs or amphetamine or any derivative thereof, is guilty of a misdemeanor, and shall be confined in jail for not more than six months and shall be fined not less than one hundred dollars (\$100.00) nor more than five hundred dollars (\$500.00).

(h) Any person under the age of twenty-one years who drives a vehicle in this Municipality while he or she has an alcohol concentration in his or her blood of two hundredths of one percent or more, by weight, but less than eight hundredths of one percent, by weight, shall, for a first offense under this subsection, be guilty of a misdemeanor, and shall be fined not less than twenty-five dollars (\$25.00) nor more than one hundred dollars (\$100.00). For a second or subsequent offense under this subsection, such person is guilty of a misdemeanor, and shall be confined in jail for twenty-four hours and shall be fined not less than one hundred dollars (\$100.00) nor more than five hundred dollars (\$500.00). A person who is charged with a first offense under the provisions of this subsection may move for a continuance of the proceedings, from time to time, to allow the person to participate in the Motor Vehicle Alcohol Test and Lock Program as provided for in West Virginia Code 17C-5A-3a. Upon successful completion of the program, the court shall dismiss the charge against the person and expunge the person's record as it relates to the alleged offense. In the event the person fails to successfully complete the program, the court shall proceed to an adjudication of the alleged offense. A motion for a continuance under this subsection may not be construed as an admission or be used as evidence.

A person arrested and charged with an offense under the provisions of this subsection or subsection (a), (b), (c), (d), (e), (f) or (g) of this section may not also be charged with an offense under this subsection arising out of the same transaction or occurrence.

- (i) Any person who:
- (1) Drives a vehicle in this Municipality while he or she:
 - A. Is under the influence of alcohol;
 - B. Is under the influence of any controlled substance;
 - C. Is under the influence of any other drug;
 - D. Is under the combined influence of alcohol and any controlled substance or any other drug; or
 - E. Has an alcohol concentration in his or her blood of eight hundredths of one percent or more, by weight; and
 - (2) The person while driving has on or within the motor vehicle one or more other persons who are unemancipated minors who have not reached their sixteenth birthday, shall be guilty of a misdemeanor, and, shall be confined in jail for not less than two days nor more than twelve months, which jail term shall include actual confinement of not less than forty-eight hours, and shall be fined not less than two hundred dollars (\$200.00) nor more than one thousand dollars (\$1,000).

(j) A person violating any provision of subsection (a), (b), (c), (d), (e), (f) or (h) of this section, for the second offense under this section, is guilty of a misdemeanor and shall be confined in jail for not less than six months nor more than one year, and the court may, in its discretion, impose a fine of not less than one thousand dollars nor more than three thousand dollars.

(k) A person violating any provision of subsection (a), (b), (c), (d), (e), (f) or (h) hereof shall, for the third or any subsequent offense under this section, be guilty of a felony and charged under West Virginia Code 17C-5-2.

(l) For purposes of subsections (j) and (k) hereof relating to second, third and subsequent offenses, the following types of convictions shall be regarded as convictions under this section:

- (1) Any conviction under the provisions of subsection (a), (b), (c), (d), (e) or (f) of this section or under a prior enactment of this section for an offense which occurred within the ten-year period immediately preceding the date of arrest in the current proceeding;
- (2) Any conviction under a municipal ordinance of this State or any other state or a statute of the United States or of any other state of an offense which has the same elements as an offense described in subsection (a), (b), (c), (d), (e), (f) or (g) of this section, which offense occurred within the ten-year period immediately preceding the date of arrest in the current proceeding.

(m) A person may be charged in a warrant or indictment or information for a second or subsequent offense under this section, if the person has been previously arrested for or charged with a violation of this section which is alleged to have occurred within the applicable time periods for prior offenses, notwithstanding the fact that there has not been a final adjudication of the charges for the alleged previous offense. In such case, the warrant or indictment or information must set forth the date, location and particulars of the previous offense or offenses. No person may be convicted of a second or subsequent offense under this section unless the conviction for the previous offense has become final.

(n) The fact that any person charged with a violation of subsection (a), (b), (c), (d) or (e) hereof, or any person permitted to drive as described under subsection (f) or (g) hereof, is or has been legally entitled to use alcohol, a controlled substance or a drug shall not constitute a defense against any charge of violating subsection (a), (b), (c), (d), (e), (f) or (g) hereof.

(o) For purposes of this section, the term "controlled substance" has the meaning ascribed to it in West Virginia Code Chapter 60A.

(p) The sentences provided herein upon conviction for a violation of this section are mandatory and may not be subject to suspension or probation; provided, that the court may apply the provisions of West Virginia Code 62-11A-1 et seq. to a person sentenced or committed to a term of one year or less for a first offense under this section. An order for home detention by the court pursuant to the provisions of West Virginia Code 62-11B-1 et seq. may be used as an alternative sentence to any period of incarceration required by this section for a first or subsequent offense; provided, however, that for any period of home incarceration ordered for a person convicted of second offense under this section, electronic monitoring shall be required for no fewer than five days of the total period of home confinement ordered and the offender may not leave home for those five days notwithstanding the provisions of West Virginia Code 62-11B-5; provided further, that for any period of home incarceration ordered for a person convicted of a third or subsequent violation of this section, electronic monitoring shall be included for no fewer than ten days of the total period of home confinement ordered and the offender may not leave home for those ten days notwithstanding West Virginia Code 62-11B-5.

(WVaC 17C-5-2)

(q) For purposes of this section, the phrase "in this Municipality" means anywhere within the physical boundaries of this Municipality, including, but not limited to, publicly maintained streets and highways, and subdivision streets or other areas not publicly maintained but nonetheless open to the use of the public for purposes of vehicular travel.

(r) When used in this section, the terms or phrases "driving under the influence of intoxicating liquor," "driving or operating a motor vehicle while intoxicated," "for any person who is under the influence of intoxicating liquor to drive any vehicle," or any similar term or phrase shall be construed to mean and be synonymous with the term or phrase "while under the influence of alcohol...drives a vehicle" as the latter term or phrase is used in this section.

(s) A warrant or indictment which charges or alleges an offense, prohibited by the provisions of this section, and which warrant or indictment uses any of the terms or phrases set forth in subsection (r) hereof, shall not thereby be fatally defective if such warrant or indictment otherwise informs the person so accused of the charges against him. (WVaC 17C-5-2a)

333.02 RECKLESS DRIVING.

(a) No person shall drive any vehicle upon any street or highway, or upon any residential street, or in any parking area, or upon the ways of any institution of higher education, whether public or private or upon the property of the Board of Education, or upon any property within the Municipal park and public recreation system, in willful or wanton disregard for the safety of persons or property.

(b) The provisions of subsection (a) hereof shall not apply to those areas which have been temporarily closed for racing sport events or which may be set aside by the Municipality within the park and recreation system for exclusive use by motorcycles or other recreational vehicles. (WVaC 17C-5-3)

333.03 HAZARDOUS DRIVING.

(a) No person shall operate a motor vehicle or motorcycle without exercising reasonable and ordinary control over such vehicle.

(b) No person shall operate a motor vehicle or motorcycle in a weaving or zigzag course unless such irregular course is necessary for safe operation or in compliance with law.

(c) No person shall operate a motor vehicle or motorcycle without giving his full time and attention to the operation of such vehicle.

333.99 PENALTY.

(EDITOR'S NOTE: See Section 303.99 for general Traffic Code penalty.)

(a) Whoever violates Section 333.02 shall for a first offense be fined not less than twenty-five dollars (\$25.00) nor more than five hundred dollars (\$500.00), or imprisoned not less than five nor more than thirty days; for a second or subsequent offense shall be fined not less than fifty dollars (\$50.00) or more than one thousand dollars (\$1,000), or imprisoned not less than ten nor more than thirty days, or both.

- (b) Notwithstanding the provisions of subsection (a) of this section, any person convicted of a violation of Section 333.02 who in doing so proximately causes another to suffer serious bodily injury shall be confined in jail not less than ten days nor more than thirty days or fined not less than fifty dollars (\$50.00) nor more than one thousand dollars (\$1,000) or both.
- (c) For purposes of subsection (b) of this section, "serious bodily injury" means bodily injury which creates a substantial risk of death, which causes serious or prolonged disfigurement, prolonged impairment of health or prolonged loss or impairment of the function of any bodily organ.

**ARTICLE 335
Speed Restrictions**

<p>335.01 Maximum speed limits.</p> <p>335.02 Slow speed.</p> <p>335.03 Special speed limitations.</p>	<p>335.04 Racing on streets and highways prohibited.</p> <p>335.05 Prima facie evidence of speed by radar.</p> <p>335.99 Penalty.</p>
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CROSS REFERENCES

See sectional histories for similar State law
 Authority to regulate speed - see W. Va. Code 17C-2-8,
 17C-6-3
 Minimum speed regulations - see W. Va. Code 17C-6-3(a)
 Special speed limitations - see W. Va. Code 17C-6-4
 et seq.
 Use of radar - see W. Va. Code 17C-6-7

335.01 MAXIMUM SPEED LIMITS.

(a) No person may drive a vehicle on a street or highway at a speed greater than is reasonable and prudent under the existing conditions and the actual and potential hazards. In every event speed shall be so controlled as may be necessary to avoid colliding with any person, vehicle or other conveyance on or entering the streets and highways in compliance with legal requirements and the duty of all persons to use due care.

(b) Where no special hazard exists that requires lower speed for compliance with subsection (a) of this section the speed of any vehicle not in excess of the limits specified in this section or established as hereinafter authorized is lawful, but any speed in excess of the limits specified below in this subsection or established as hereinafter authorized is unlawful.

- (1) Fifteen miles per hour in a school zone during school recess or while children are going to or leaving school during opening or closing hours. A school zone is all school property including school grounds and any street or highway abutting such school grounds and extending one hundred twenty-five feet along such street or highway from the school grounds. Such speed restriction does not apply to vehicles traveling on a controlled-access highway which is separated from the school or school grounds by a fence or barrier approved by the Division of Highways;

- (2) Twenty-five miles per hour in any business or residence district;
- (3) Fifty-five miles per hour on open country highways; except as otherwise provided by this article.

The speeds set forth in this section may be altered as authorized in West Virginia Code Article 17C-6.

(c) The driver of every vehicle shall, consistent with the requirements of subsection (a) of this section, drive at an appropriate reduced speed when approaching and crossing an intersection or railway grade crossing, when approaching and going around a curve, when approaching a hill crest, when traveling upon any narrow or winding roadway and when special hazard exists with respect to pedestrians or other traffic or by reason of weather or highway conditions.

(d) The speed limit on controlled-access highways and interstate highways, where no special hazard exists that requires a lower speed, shall be not less than fifty-five miles per hour and the speed limits specified in subsection (b) of this section do not apply.
(WVaC 17C-6-1)

335.02 SLOW SPEED.

No person shall drive a motor vehicle at such a slow speed as to impede the normal and reasonable movement of traffic except when reduced speed is necessary for safe operation or in compliance with law.
(WVaC 17C-6-3a(a))

335.03 SPECIAL SPEED LIMITATIONS.

(a) Subject to all other speed restrictions of this Traffic Code no person shall drive a vehicle not designed for carrying passengers and equipped with pneumatic tires at a speed in excess of:

- (1) Twenty miles per hour in any business district;
- (2) Twenty-five miles per hour in any residence district;
- (3) Forty miles per hour on open country highway;
- (4) Trucks licensed at 8,000 pounds gross vehicle weight or less shall be permitted the same speed as passenger cars.
(WVaC 17C-6-4)

(b) No person shall drive any vehicle equipped with other than pneumatic tires at a speed greater than a maximum of ten miles per hour.

No person shall drive a vehicle over any bridge or other elevated structure constituting a part of a street or highway at a speed which is greater than the maximum speed which can be maintained with safety to such bridge or structure, when such structure is so signposted.
(WVaC 17C-6-5)

335.04 RACING ON STREETS AND HIGHWAYS PROHIBITED.

No person shall engage in, or aid or abet by serving as lookout or timer or in any other capacity whatever, any speed race, as defined herein, on any public street or highway in this Municipality. For the purposes of this section, "speed race" means:

- (a) The operation of a motor vehicle in speed acceleration competition with another motor vehicle or motor vehicles; or
 - (b) The operation of a motor vehicle in speed acceleration competition against time; or
 - (c) The operation of a motor vehicle in speed competition with another motor vehicle or motor vehicles where the speed exceeds the lawful speed limit.
- (WVaC 17C-6-8(a))

335.05 PRIMA FACIE EVIDENCE OF SPEED BY RADAR.

The speed of a motor vehicle may be proved by evidence obtained by use of any device designed to measure and indicate or record the speed of a moving object by means of microwaves or reflected light, when such evidence is obtained by members of the Police Department. The evidence so obtained shall be accepted as prima facie evidence of the speed of such vehicle.

(WVaC 17C-6-7)

335.99 PENALTY.

(EDITOR'S NOTE: See Section 303.99 for general Traffic Code penalty.)

ARTICLE 337
Driving on Right; Passing

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|--------|---|--------|---|
| 337.01 | Driving upon right side of roadway; exceptions. | 337.07 | Hazardous or no passing zones. |
| 337.02 | Passing to right when proceeding in opposite directions. | 337.08 | One-way roadways and rotary traffic islands. |
| 337.03 | Overtaking, passing to left; driver's duties. | 337.09 | Driving in marked lanes or continuous lines of traffic. |
| 337.04 | Overtaking and passing upon right. | 337.10 | Following too closely. |
| 337.05 | Overtaking, passing to left of center. | 337.11 | Driving upon divided roadways. |
| 337.06 | Additional restrictions on driving upon left side of roadway. | 337.12 | Entering and exiting controlled-access highway. |
| | | 337.99 | Penalty. |

CROSS REFERENCES

See sectional histories for similar State law
Authority to establish one-way streets - see W. Va.
Code 17C-2-8(4)

337.01 DRIVING UPON RIGHT SIDE OF ROADWAY; EXCEPTIONS.

(a) Upon all roadways of sufficient width a vehicle shall be driven upon the right half of the roadway, except as follows:

- (1) When overtaking and passing another vehicle proceeding in the same direction under the rules governing such movement;
- (2) When the right half of a roadway is closed to traffic while under construction or repair;
- (3) Upon a roadway divided into three marked lanes for traffic under the rules applicable thereon; or
- (4) Upon a roadway designated and signposted for one-way traffic.

(b) Upon all roadways any vehicle proceeding at less than the normal speed of traffic at the time and place and under the conditions then existing shall be driven in the right-hand lane then available for traffic, or as close as practicable to the right-hand curb or edge of the roadway, except when overtaking and passing another vehicle proceeding in the same direction or when preparing for a left turn at an intersection or into a private road or driveway.

(WVaC 17C-7-1)

337.02 PASSING TO RIGHT WHEN PROCEEDING IN OPPOSITE DIRECTIONS.

Drivers of vehicles proceeding in opposite directions shall pass each other to the right, and upon roadways having width for not more than one line of traffic in each direction each driver shall give to the other at least one-half of the main-traveled portion of the roadway as nearly as possible.

(WVaC 17C-7-2)

337.03 OVERTAKING, PASSING TO LEFT; DRIVER'S DUTIES.

The following rules shall govern the overtaking and passing of vehicles proceeding in the same direction, subject to these limitations, exceptions and special rules hereinafter stated.

- (a) The driver of a vehicle overtaking another vehicle proceeding in the same direction shall give an audible signal and pass to the left thereof at a safe distance and shall not again drive to the right side of the roadway until safely clear of the overtaken vehicle.
- (b) Except when overtaking and passing on the right is permitted, the driver of an overtaken vehicle shall give way to the right in favor of the overtaking vehicle on audible signal and shall not increase the speed of his or her vehicle until completely passed by the overtaking vehicle.

(WVaC 17C-7-3)

337.04 OVERTAKING AND PASSING UPON RIGHT.

(a) The driver of a vehicle may overtake and pass upon the right of another vehicle only under the following conditions:

- (1) When the vehicle overtaken is making or about to make a left turn;
- (2) Upon a street or highway with unobstructed pavement not occupied by parked vehicles of sufficient width for two or more lines of moving vehicles in each direction;
- (3) Upon a one-way street, or upon any roadway on which traffic is restricted to one direction of movement, where the roadway is free from obstructions and of sufficient width for two or more lines of moving vehicles.

(b) The driver of a vehicle may overtake and pass another vehicle upon the right only under conditions permitting such movement in safety. In no event shall such movement be made by driving off the pavement or main-traveled portion of the roadway.

(WVaC 17C-7-4)

337.05 OVERTAKING, PASSING TO LEFT OF CENTER.

No vehicle shall be driven to the left side of the center of the roadway in overtaking and passing another vehicle proceeding in the same direction unless such left side is clearly visible and is free of oncoming traffic for a sufficient distance ahead to permit such overtaking and passing to be completely made without interfering with the safe operation of any vehicle approaching from the opposite direction or any vehicle overtaken. In every event the overtaking vehicle must return to the right-hand side of the roadway before coming within 100 feet of any vehicle approaching from the opposite direction.

(WVaC 17C-7-5)

337.06 ADDITIONAL RESTRICTIONS ON DRIVING UPON LEFT SIDE OF ROADWAY.

(a) No vehicle shall at any time be driven to the left side of the roadway under the following conditions:

- (1) When approaching the crest of a grade or upon a curve in the street or highway where the driver's view is obstructed within such distance as to create a hazard in the event another vehicle might approach from the opposite direction;
- (2) When approaching within 100 feet of or traversing any intersection or railroad grade crossing;
- (3) When the view is obstructed upon approaching within 100 feet of any bridge, viaduct or tunnel.

(b) The foregoing limitations shall not apply upon a one-way roadway.
(WVaC 17C-7-6)

337.07 HAZARDOUS OR NO PASSING ZONES.

When signs or markings are in place and clearly visible to an ordinarily observant person indicating that overtaking and passing or driving to the left of the roadway would be especially hazardous, every driver of a vehicle shall obey the directions thereof.
(WVaC 17C-7-7)

337.08 ONE-WAY ROADWAYS AND ROTARY TRAFFIC ISLANDS.

(a) Upon a roadway designated and signposted for one-way traffic a vehicle shall be driven only in the direction designated.

(b) A vehicle passing around a rotary traffic island shall be driven only to the right of such island.
(WVaC 17C-7-8(b), (c))

337.09 DRIVING IN MARKED LANES OR CONTINUOUS LINES OF TRAFFIC.

Whenever any roadway has been divided into two or more clearly marked lanes for traffic the following rules in addition to all others consistent herewith shall apply:

- (a) A vehicle shall be driven as nearly as practicable entirely within a single lane and shall not be moved from such lane until the driver has first ascertained that such movement can be made with safety.
- (b) Upon a roadway which is divided into three lanes a vehicle shall not be driven in the center lane which is clearly marked as a left turn lane except in preparation for a left turn or where such center lane is at the time allocated exclusively to traffic moving in the direction the vehicle is proceeding and is signposted to give notice of such allocation.
- (c) Official signs may be erected directing slow-moving traffic to use a designated lane or designating those lanes to be used by traffic moving in a particular direction regardless of the center of the roadway and drivers of vehicles shall obey the directions of every such sign.

(WVaC 17C-7-9)

337.10 FOLLOWING TOO CLOSELY.

(a) The driver of a motor vehicle shall not follow another vehicle more closely than is reasonable and prudent having due regard for the speed of such vehicles and the traffic upon and the condition of the street or highway.

(b) No operator of any motor truck, registered for a gross weight of more than 8,000 pounds, bus, special mobile equipment or any motor vehicle drawing another vehicle operating upon any roadway outside of a business or residence district, shall follow within 200 feet of another motor truck, bus, special mobile equipment or any motor vehicle drawing another vehicle; provided that this provision shall not be construed to:

- (1) Prevent overtaking and passing;
- (2) Apply upon any lane specially designated for the use of motor trucks or combinations of vehicles, or within any section of a roadway posted or marked as a "no-passing zone";
- (3) Apply to any convoy of vehicles of the military service of the United States or of this State; and
- (4) Apply to funeral processions.

(c) Motor vehicles being driven upon any roadway outside of a business or residence district in a caravan or motorcade whether or not towing other vehicles shall be so operated as to allow sufficient space between each such vehicle or combination of vehicles so as to enable any other vehicle to enter and occupy such space without danger. This provision shall not apply to:

- (1) Funeral processions; or
- (2) Any convoy of vehicles of the military service of the United States or of this State.

(WVaC 17C-7-10)

337.11 DRIVING UPON DIVIDED ROADWAYS.

Whenever any street or highway has been divided into two roadways by leaving an intervening space or by a physical barrier or clearly indicated dividing section so constructed as to impede vehicular traffic, every vehicle shall be driven only upon the right-hand roadway and no vehicle shall be driven over, across or within any such dividing space, barrier or section, except through an opening in such physical barrier or dividing section or space or at a crossover or intersection established by public authority.

(WVaC 17C-7-11)

337.12 ENTERING AND EXITING CONTROLLED-ACCESS HIGHWAY.

No person shall drive a vehicle onto or from any controlled-access roadway except at such entrances and exits as are established by public authority.

(WVaC 17C-7-12)

337.99 PENALTY.

(EDITOR'S NOTE: See Section 303.99 for general Traffic Code penalty.)

ARTICLE 339
Turning and Starting; Signals

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|---|---|
| <p>339.01 Conformity with provisions required.</p> <p>339.02 Right turns.</p> <p>339.03 Left turns on two-way roadways.</p> <p>339.04 Left turns on other than two-way roadways.</p> <p>339.05 Specified turns at intersections.</p> <p>339.06 "U" turns restricted.</p> <p>339.07 Starting vehicle.</p> | <p>339.08 Signals before changing course, turning or stopping.</p> <p>339.09 Signals to be given by hand and arm or signal device.</p> <p>339.10 Hand and arm signals.</p> <p>339.99 Penalty.</p> |
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CROSS REFERENCES

See sectional histories for similar State law
Authority to regulate the turning of vehicles - see
W. Va. Code 17C-2-8(a)(9)
Authority to specify different courses for turns -
see W. Va. Code 17C-8-5

339.01 CONFORMITY WITH PROVISIONS REQUIRED.

The driver of a vehicle intending to turn at an intersection shall do so as provided in this article.
(WVaC 17C-8-1)

339.02 RIGHT TURNS.

Both the approach for a right turn and a right turn shall be made as close as practicable to the right-hand curb or edge of the roadway.
(WVaC 17C-8-2)

339.03 LEFT TURNS ON TWO-WAY ROADWAYS.

At any intersection where traffic is permitted to move in both directions on each roadway entering the intersection, an approach for a left turn shall be made in that portion of the right half of the roadway nearest the centerline thereof and by passing to the right of such centerline where it enters the intersection and after entering the intersection the left turn shall be made so as to leave the intersection to the right of the centerline of the roadway being entered. Whenever practicable the left turn shall be made in that portion of the intersection to the left of the center of the intersection.
(WVaC 17C-8-3)

339.04 LEFT TURNS ON OTHER THAN TWO-WAY ROADWAYS.

At any intersection where traffic is restricted to one direction on one or more of the roadways, the driver of a vehicle intending to turn left at any such intersection shall approach the intersection in the extreme left-hand lane lawfully available to traffic moving in the direction of travel of such vehicle and after entering the intersection the left turn shall be made so as to leave the intersection, as nearly as practicable, in the left-hand lane lawfully available to traffic moving in such direction upon the roadway being entered.

(WVaC 17C-8-4)

339.05 SPECIFIED TURNS AT INTERSECTIONS.

Council or other designated traffic authority may cause markers, buttons or signs to be placed within or adjacent to intersections and thereby require and direct that a different course from that specified in this article be traveled by vehicles turning at an intersection, and when markers, buttons or signs are so placed no driver of a vehicle shall turn a vehicle at an intersection other than as directed and required by such markers, buttons or signs. (WVaC 17C-8-5)

339.06 "U" TURNS RESTRICTED.

(a) No vehicle shall be turned so as to proceed in the opposite direction upon any curve, or upon the approach to, or near the crest of a grade, where such vehicle cannot be seen by the driver of any other vehicle approaching from either direction within 500 feet.

(WVaC 17C-8-6)

(b) No vehicle shall be turned so as to proceed in the opposite direction within an intersection, or upon any street in a business district, or upon a freeway, expressway or controlled-access highway, or where authorized signs are erected to prohibit such movement, or at any other location unless such movement can be made with reasonable safety to other users of the street and without interfering with the safe operation of any traffic that may be affected by such movement.

339.07 STARTING VEHICLE.

No person shall start a vehicle which is stopped, standing or parked unless and until such movement can be made with reasonable safety.

(WVaC 17C-8-7)

339.08 SIGNALS BEFORE CHANGING COURSE, TURNING OR STOPPING.

(a) No person shall turn a vehicle at an intersection unless the vehicle is in proper position upon the roadway as required in Sections 339.02 to 339.05, or turn a vehicle to enter a private road or driveway or otherwise turn a vehicle from a direct course or move right or left upon a roadway unless and until such movement can be made with reasonable safety. No person shall so turn any vehicle without giving an appropriate signal in the manner hereinafter provided in the event any other traffic may be affected by such movement.

(b) A signal of intention to turn right or left when required shall be given continuously during not less than the last 100 feet traveled by the vehicle before turning.

(c) No person shall stop or suddenly decrease the speed of a vehicle without first giving an appropriate signal in the manner provided herein to the driver of any vehicle immediately to the rear when there is opportunity to give such signal.
(WVaC 17C-8-8)

339.09 SIGNALS TO BE GIVEN BY HAND AND ARM OR SIGNAL DEVICE.

Any stop or turn signal when required herein shall be given either by means of the hand and arm or by a signal lamp or lamps or mechanical signal device, but when a vehicle is so constructed or loaded that hand-and-arm signal would not be visible both to the front and rear of such vehicle then such signals must be given by such a lamp or lamps or signal device.
(WVaC 17C-8-9)

339.10 HAND AND ARM SIGNALS.

All signals herein required given by hand and arm shall be given from the left side of the vehicle in the following manner and such signals shall indicate as follows:

- (a) Left Turn: Hand and arm extended horizontally.
 - (b) Right Turn: Hand and arm extended upward.
 - (c) Stop or Decrease Speed: Hand and arm extended downward.
- (WVaC 17C-8-10)

339.99 PENALTY.

(EDITOR'S NOTE: See Section 303.99 for general Traffic Code penalty.)

**ARTICLE 341
Right of Way**

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| <p>341.01 Right of way at intersections.</p> <p>341.02 Right of way when turning left.</p> <p>341.03 Right of way at through street or highway or stop intersections.</p> | <p>341.04 Driving onto roadway from private road or driveway; duty to yield.</p> <p>341.05 Right of way of emergency vehicle.</p> <p>341.06 Turning into private driveway, alley or building.</p> <p>341.99 Penalty.</p> |
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CROSS REFERENCES

See sectional histories for similar State law
Authority to designate through streets and stop intersections - see W. Va. Code 17C-2-8(a)(6), 17C-12-5

341.01 RIGHT OF WAY AT INTERSECTIONS.

(a) The driver of a vehicle approaching an intersection shall yield the right of way to a vehicle which has entered the intersection from a different street or highway.

(b) When two vehicles enter an intersection from a different street or highway at approximately the same time the driver of the vehicle on the left shall yield the right of way to the vehicle on the right.

(c) The right-of-way rules declared in subsections (a) and (b) hereof are modified at through streets or highways and otherwise as hereinafter stated in this article.
(WVaC 17C-9-1)

341.02 RIGHT OF WAY WHEN TURNING LEFT.

The driver of a vehicle within an intersection intending to turn to the left shall yield the right of way to any vehicle approaching from the opposite direction which is within the intersection or so close thereto as to constitute an immediate hazard, but such driver, having so yielded and having given a signal when and as required by this Traffic Code may make such left turn and the drivers of all other vehicles approaching the intersection from the opposite direction shall yield the right of way to the vehicles making the left turn.
(WVaC 17C-9-2)

341.03 RIGHT OF WAY AT THROUGH STREET OR HIGHWAY OR STOP INTERSECTIONS.

(a) The driver of a vehicle shall stop as required by Section 343.05 at the entrance to a through street or highway and shall yield the right of way to other vehicles which have entered the intersection from such through streets or highways or which are approaching so closely on such through street or highway as to constitute an immediate hazard but the driver having so yielded may proceed.

(b) The driver of a vehicle shall likewise stop in obedience to a stop sign as required herein at an intersection where a stop sign is erected at one or more entrances thereto although not a part of a through street or highway and shall proceed cautiously, yielding to vehicles not so obliged to stop which are within the intersection or approaching so closely as to constitute an immediate hazard, but may then proceed.

(WVaC 17C-9-3)

341.04 DRIVING ONTO ROADWAY FROM PRIVATE ROAD OR DRIVEWAY; DUTY TO YIELD.

The driver of a vehicle about to enter or cross a street or highway from a private road or driveway shall yield the right of way to all vehicles approaching on the street or highway.

(WVaC 17C-9-4)

341.05 RIGHT OF WAY OF EMERGENCY VEHICLE.

(a) Upon the immediate approach of an authorized emergency vehicle equipped with at least one flashing lighted lamp of a color authorized by Section 345.18, which is visible under normal atmospheric conditions from a distance of 500 feet to the front of such vehicle other than a police vehicle when operated as an authorized emergency vehicle, and when the driver is giving audible signal by siren, exhaust whistle or bell, the driver of every other vehicle shall yield the right of way and shall immediately drive to a position parallel to, and as close as possible to, the right-hand edge or curb of the roadway clear of any intersection and shall stop and remain in such position until the authorized emergency vehicle has passed, except when otherwise directed by a police officer.

(b) This section shall not operate to relieve the driver of an authorized emergency vehicle from the duty to drive with due regard for the safety of all persons using the street or highway.

(WVaC 17C-9-5)

341.06 TURNING INTO PRIVATE DRIVEWAY, ALLEY OR BUILDING.

The driver of a vehicle intending to turn into a private road or driveway, alley or building from a public street or highway shall be governed by the following rules:

(a) Approach for a right turn and a right turn shall be made as close as practicable to the right-hand curb or edge of the roadway.

(b) Upon a roadway where traffic is proceeding in opposite directions, approach for a left turn and a left turn shall be made from that portion of the right half of the roadway nearest the center line thereof.

- (c) Upon a roadway where traffic is restricted to one direction, approach for a left turn and a left turn shall be made as close as practicable to the left-hand curb or edge of the roadway.

It shall be the duty of the driver of any vehicle entering a private road or driveway, alley or building to yield the right of way to pedestrians lawfully using the sidewalk or sidewalk area extending across any alleyway, private road, driveway or building.

341.99 PENALTY.

(EDITOR'S NOTE: See Section 303.99 for general Traffic Code penalty.)

**ARTICLE 343
Special Stops Required**

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| 343.01 Driving across grade crossing. | 343.07 Stopping for school bus; signs and warning lights; sale of school bus. |
| 343.02 Stops at dangerous grade crossings. | 343.08 Stopping for passenger van; signs and warning lights. |
| 343.03 Stopping at grade crossing. | 343.09 Obstructing intersection or crosswalk. |
| 343.04 Moving heavy equipment across grade crossings. | 343.10 Yield signs. |
| 343.05 Through streets and stop intersections. | 343.99 Penalty. |
| 343.06 Driving onto roadway from place other than roadway; stopping at sidewalk. | |

CROSS REFERENCES

See sectional histories for similar State law
Authority to establish through streets and stop intersections - see W. Va. Code 17C-2-8(a)(6)

343.01 DRIVING ACROSS GRADE CROSSING.

(a) Whenever any person driving a vehicle approaches a railroad grade crossing under any of the circumstances stated in this section, the driver of such vehicle shall stop within fifty feet but not less than fifteen feet from the nearest rail of such railroad, and shall not proceed until he can do so safely. The foregoing requirements shall apply when:

- (1) A clearly visible electric or mechanical signal device gives warning of the immediate approach of a railroad train;
- (2) A crossing gate is lowered or when a human flagman gives or continues to give a signal of the approach or passage of a railroad train;
- (3) A railroad train approaching within approximately 1,500 feet of the street or highway crossing emits a signal audible from such distance and such railroad train, by reason of its speed or nearness to such crossing, is an immediate hazard;
- (4) Any approaching railroad train is plainly visible and is in hazardous proximity to such crossing.

(b) No person shall drive any vehicle through, around or under any crossing gate or barrier at a railroad crossing while such gate or barrier is closed or is being opened or closed. (WVaC 17C-12-1)

343.02 STOPS AT DANGEROUS GRADE CROSSINGS.

Council or other designated traffic authority with the approval of the State Commissioner of Highways is hereby authorized to designate particularly dangerous highway grade crossings of railroads and to erect stop signs thereat. When such stop signs are erected the driver of any vehicle shall stop within fifty feet but not less than fifteen feet from the nearest rail of such railroad and shall proceed only upon exercising due care. (WVaC 17C-12-2)

343.03 STOPPING AT GRADE CROSSING.

(a) Except as provided in subsection (f) of this section, the driver of a commercial motor vehicle specified in subsection (b) of this section shall not cross a railroad track or tracks at grade unless he or she first:

- (1) Stops the commercial motor vehicle within fifty feet of, and not closer than fifteen feet to, the tracks;
- (2) Thereafter, listens and looks in each direction along the tracks for an approaching train; and
- (3) Ascertain that no train is approaching.

When it is safe to do so, the driver may drive the commercial motor vehicle across the tracks in a gear that permits the commercial motor vehicle to complete the crossing without change of gears. The driver shall not shift gears while crossing the tracks.

(b) The following commercial vehicles are required to stop at railroad tracks or tracks at grade:

- (1) Every bus transporting passengers;
- (2) Every commercial motor vehicle transporting any quantity of a United States Department of Transportation defined division 2.3 chlorine;
- (3) Every commercial motor vehicle which, in accordance with United States Department of Transportation regulations, is marked or placarded and is required to stop in accordance with 49 C.F.R. part §392.10(a)(3)(2001);
- (4) Every cargo tank motor vehicle, loaded or empty, used for the transportation of any hazardous material, as defined in Federal Department of Transportation hazardous materials rules, 49 C.F.R. parts §107 through §180 (2001);
- (5) Every cargo tank motor vehicle transporting a commodity which, at the time of loading, has a temperature above its flashpoint as determined by 49 C.F.R. §173.120 (2001); and
- (6) Every cargo tank motor vehicle, whether loaded or empty, transporting any commodity exemption in accordance with 49 C.F.R. part §107 subpart B (2001).

(c) Any vehicle owned by an employer which, in carrying on the employer's business or in carrying employees to and from work, carries more than six employees of the employer is required to stop at all railroad tracks or tracks at grade, in accordance with subsection (a) of this section.

(d) All drivers of commercial motor vehicles not required to stop at railroad tracks or tracks at grade as provided in subsection (a) of this section may not cross a railroad track or tracks at grade unless he or she first slows the commercial motor vehicle to a speed which will permit the commercial motor vehicle to be stopped before reaching the nearest rail of the railroad crossing and permit exercise of due caution to ascertain that the tracks are clear of an approaching train.

(e) All drivers of commercial motor vehicles may not proceed to cross a railroad crossing unless there is sufficient space to drive completely through the crossing without stopping and the vehicle has sufficient undercarriage clearance to drive completely through the crossing without stopping.

(f) No stop need be made at:

- (1) Any crossing where a police officer, crossing flagger or a traffic-control signal directs traffic to proceed;
- (2) A streetcar crossing, or railroad tracks used exclusively for industrial switching purposes within a business district, as defined in 49 C.F.R. §390.5 (2000);
- (3) A railroad grade crossing controlled by a functioning highway traffic signal transmitting a green indication which, under local law permits the commercial motor vehicle to proceed across the track without slowing or stopping; or
- (4) A railroad grade crossing which is marked with a sign indicating that the rail line is out of service.

(g) Any person driving a vehicle specified in this section or a vehicle that requires a commercial driver's license who fails to comply with the requirements of this section is guilty of a misdemeanor. Provided, that if the electric or mechanical signal device is malfunctioning, this subsection shall not apply.
(WVaC 17C-12-3)

343.04 MOVING HEAVY EQUIPMENT ACROSS GRADE CROSSINGS.

(a) No person shall operate or move any crawler-type tractor, steam shovel, derrick, roller or any equipment or structure having a normal operating speed of ten or less miles per hour or a vertical body or load clearance of less than one-half inch per foot of the distance between any two adjacent axles or in any event, of less than nine inches, measured above the level surface of a roadway, upon or across any tracks at a railroad grade crossing without first complying with this section.

(b) Notice of any such intended crossing shall be given to a station agent of such railroad and a reasonable time be given to such railroad to provide proper protection at such crossing.

(c) Before making any such crossing the person operating or moving any such vehicle or equipment shall first stop the same not less than fifteen feet nor more than fifty feet from the nearest rail of such railroad and while so stopped shall listen and look in both directions along such track for any approaching train, and for signals indicating the approach of a train, and shall not proceed until the crossing can be made safely.

(d) No such crossing shall be made when warning is given by automatic signal or crossing gates or a flagman or otherwise of the immediate approach of a railroad train or car. If a flagman is provided by the railroad, movement over the crossing shall be under his direction. (WVaC 17C-12-4)

343.05 THROUGH STREETS AND STOP INTERSECTIONS.

(a) Council or other designated traffic authority may designate through streets or highways and erect stop signs at specified entrances thereto or may designate any intersection as a stop intersection and erect like signs at one or more entrances to such intersection.

(b) Every such sign shall bear the word "Stop" in letters not less than six inches in height and such sign shall at nighttime be rendered luminous by steady or flashing internal illumination, or by a fixed floodlight projected on the face of the sign, or by efficient reflecting elements on the face of the sign.

(c) Every stop sign shall be erected as near as practicable to the nearest line of the crosswalk on the near side of the roadway.

(d) Every driver of a vehicle approaching a stop sign shall stop before entering the crosswalk on the near side of the intersection or in the event there is no crosswalk shall stop at a clearly marked stop line, but if none, then at the point nearest the intersecting street or highway where the driver has a view of approaching traffic on the intersecting street or highway before entering the intersection except when directed to proceed by a police officer or traffic control signal. (WVaC 17C-12-5)

343.06 DRIVING ONTO ROADWAY FROM PLACE OTHER THAN ROADWAY; STOPPING AT SIDEWALK.

The driver of a vehicle within a business or residence district emerging from any alley, driveway or building shall stop such vehicle immediately prior to driving onto a sidewalk or onto the sidewalk area extending across any alleyway or private driveway, and shall yield the right of way to any pedestrian as may be necessary to avoid collision, and upon entering the roadway shall yield the right of way to all vehicles approaching on such roadway. (WVaC 17C-12-6)

343.07 STOPPING FOR SCHOOL BUS; SIGNS AND WARNING LIGHTS; SALE OF SCHOOL BUS.

(a) The driver of a vehicle upon meeting or overtaking from either direction any school bus which has stopped for the purpose of receiving or discharging any school children shall stop the vehicle before reaching such school bus when there is in operation on such school bus flashing warning signal lights, as referred to in West Virginia Code 17C-12-8 and such driver shall not proceed until such school bus resumes motion, or is signaled by the school bus driver to proceed or the visual signals are no longer actuated. This section applies wherever the school bus is receiving or discharging children, including, but not limited to, any street, highway, parking lot, private road or driveway: provided, that the driver of a vehicle upon a controlled access highway need not stop upon meeting or passing a school bus which is on a different roadway or adjacent to such highway and where pedestrians are not permitted to cross the roadway.

(b) Every bus used for the transportation of school children shall bear upon the front and rear thereof a plainly visible sign containing the words "school bus" in letters not less than eight inches in height. When a contract school bus is being operated upon a street or highway for purposes other than the actual transportation of children either to or from school, all markings thereon indicating "school bus" shall be covered or concealed. Any school bus sold or transferred to another owner by a county board of education, agency or individual, shall have all flashing warning lights disconnected and all lettering removed or permanently obscured, except when sold or transferred for the transportation of school children. (WVaC 17C-12-7)

343.08 STOPPING FOR PASSENGER VAN; SIGNS AND WARNING LIGHTS.

(a) Every passenger van used for the transportation of children shall bear upon the front and rear thereof a plainly visible sign containing the warning "Caution: Loading and Unloading Passengers" in letters not less than six inches in height. Every such passenger van shall be equipped with either flashing warning signal lights as are contemplated and referred to in West Virginia Code 17C-12-8, or a red caution flag which the driver or some other adult must use by exiting the passenger van and displaying while assisting in the loading or unloading of passengers. Such vehicles may also be equipped with a white flashing strobotron warning light that meets the requirements set forth in West Virginia Code 17C-15-26(e).

(b) The driver of a vehicle upon meeting or overtaking from any direction any passenger van which has stopped for the purpose of loading or unloading passengers shall stop his or her vehicle before reaching the passenger van when there is in operation on the passenger van flashing warning signal lights or when an adult is outside the passenger van with a red caution flag and assisting with the loading or unloading of passengers. The driver of a vehicle may not proceed until he or she is signaled by the passenger van driver to proceed, the passenger van flashing signal lights are no longer actuated, or the passenger resumes motion. This section applies whenever the passenger van is loading or unloading children on any street, highway, parking lot, private road or driveway: provided, that the driver of a vehicle upon a controlled access highway need not stop upon meeting or passing a passenger van which is on a different roadway or adjacent to the highway and where pedestrians are not permitted to cross the roadway. (WVaC 17C-12-17a)

343.09 OBSTRUCTING INTERSECTION OR CROSSWALK.

No driver shall enter an intersection or a marked crosswalk unless there is sufficient space on the other side of the intersection or crosswalk to accommodate the vehicle he is operating without obstructing the passage of other vehicles or pedestrians, notwithstanding any traffic control signal indication to proceed.

343.10 YIELD SIGNS.

No driver or operator of any vehicle approaching any street in the City at which a "Yield" or "Yield Right of Way" sign is erected pursuant to this Traffic Code shall proceed without yielding the right of way to any vehicle which may be approaching upon such street. (1987 Code 15C-7-9)

343.99 PENALTY.

(EDITOR'S NOTE: See Section 303.99 for general Traffic Code penalty if no specific penalty is provided.)

(a) Driving Onto Roadway From Place Other Than Roadway. Whoever violates Section 343.06 shall be fined not more than one hundred dollars (\$100.00); upon a second conviction within one year thereafter shall be fined not more than two hundred dollars (\$200.00); and upon a third or subsequent conviction, shall be fined not more than five hundred dollars (\$500.00).

- (b) Stopping for School Bus. Any driver acting in violation of Section 343.07(a) for a first offense, shall be fined not less than one hundred fifty dollars (\$150.00) or more than five hundred dollars (\$500.00), or confined in jail not more than thirty days, or both fined and confined. Upon conviction of a second violation of Section 343.07(a), the driver shall be fined five hundred dollars (\$500.00), or confined in jail not more than thirty days, or both fined and confined. Upon conviction of a third or subsequent violation of Section 343.07(a), the driver shall be fined five hundred dollars (\$500.00) and confined not less than twenty-four hours in jail but not more than thirty days.
- (c) Stopping For Passenger Van. Any driver acting in violation of Section 343.08(b) shall be fined not less than fifty dollars (\$50.00) nor more than two hundred dollars (\$200.00), or imprisoned not more than thirty days, or both. If the identity of the driver cannot be ascertained, then any such owner or lessee of the vehicle in violation of Section 343.08(b) shall be fined not less than twenty-five dollars (\$25.00) nor more than one hundred dollars (\$100.00): provided, however, that such conviction shall not subject such owner or lessee to further administrative or other penalties for such offense, notwithstanding other provisions of this Traffic Code to the contrary.

ARTICLE 345
Safety and Equipment

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| 345.01 | Driving unsafe vehicles; application; farm and road equipment exceptions. | 345.18 | Special restrictions on lights. |
| 345.02 | When lighted lights required. | 345.19 | Motor vehicle or motor-cycle brakes. |
| 345.03 | Measurement of distances and heights. | 345.20 | Inspection of brakes on motorcycles, motor-driven cycles and mopeds. |
| 345.04 | Headlights on motor vehicles and motor-cycles. | 345.21 | Horn, siren and theft alarm signal. |
| 345.05 | Tail light; illumination of rear license plate. | 345.22 | Muffler; muffler cutout; excessive smoke, gas or noise. |
| 345.06 | Red light or red flag on extended loads. | 345.23 | Rear-view mirror. |
| 345.07 | Lights on parked or stopped vehicles. | 345.24 | Windshield to be unobstructed; windshield wiper. |
| 345.08 | Lights on slow-moving vehicles. | 345.25 | Tire equipment restrictions. |
| 345.09 | Spotlights and auxiliary lights. | 345.26 | Safety glass in motor vehicles. |
| 345.10 | Signal lamps and signal devices. | 345.27 | Vehicles transporting explosives. |
| 345.11 | Cowl, fender and back-up lights; flashing hazard lights. | 345.28 | Television receiver in driver's view prohibited. |
| 345.12 | Multiple-beam road-lighting equipment requirements. | 345.29 | Safety equipment for motorcyclists, motor-cycles, motor-driven cycles and mopeds. |
| 345.13 | Use of headlight beams. | 345.30 | Certification labels on mopeds. |
| 345.14 | Single-beam road-lighting equipment. | 345.31 | Child passenger safety devices required; child safety seats and booster seats. |
| 345.15 | Lights on motorcycles, motor-driven cycles and mopeds. | 345.32 | Certificate of inspection and approval. |
| 345.16 | Alternate road-lighting equipment. | 345.33 | Alteration of motor vehicles; bumper height limits. |
| 345.17 | Number of driving lights required or permitted. | 345.34 | Sun screening devices. |
| | | 345.35 | Operation of vehicles with safety belts. |
| | | 345.99 | Penalty. |

CROSS REFERENCES

See sectional histories for similar State law
Obscured light on vehicles in combination - see
W. Va. Code 17C-15-13
Warning devices for commercial vehicles - see
W. Va. Code 17C-15-39
Bicycle equipment - see TRAF. Art. 373

345.01 DRIVING UNSAFE VEHICLES; APPLICATION; FARM AND ROAD EQUIPMENT EXCEPTIONS.

(a) No person shall drive or move and no owner shall cause or knowingly permit to be driven or moved on any street or highway any vehicle or combination of vehicles which is in such unsafe condition as to endanger any person, or which does not contain those parts or is not at all times equipped with such lamps and other equipment in proper condition and adjustment as required in this article, or which is equipped in any manner in violation of this article, or for any person to do any act forbidden or fail to perform any act required under this article.

(b) Nothing contained in this article shall be construed to prohibit the use of additional parts and accessories on any vehicle not inconsistent with the provisions of this article.

(c) The provisions of this article with respect to equipment on vehicles shall not apply to implements of husbandry, road machinery, road rollers or farm tractors except as herein made applicable. Every farm tractor equipped with an electric lighting system shall at all times mentioned in Section 345.02 display a red tail lamp and either multiple-beam or single-beam head lamps meeting the requirements of Section 345.02.

(WVaC 17C-15-1)

345.02 WHEN LIGHTED LIGHTS REQUIRED.

Every vehicle other than a school bus, motorcycle, motor-driven cycle or moped operated upon a street or highway within this Municipality at any time from sunset to sunrise or during fog, smoke, rain or other unfavorable atmospheric conditions, or at any other time when there is not sufficient light to render clearly discernible persons and vehicles on the street or highway at a distance of 500 feet ahead shall display lighted head lamps and illuminating devices as hereinafter respectively required for different classes of vehicles, subject to exceptions with respect to parked vehicles as provided for in Section 345.07(c). Every school bus, motorcycle, motor-driven cycle and moped shall display lighted head lamps at all times when upon the street or highway.

(WVaC 17C-15-2)

345.03 MEASUREMENT OF DISTANCES AND HEIGHTS.

(a) Whenever requirement is hereinafter declared as to the distance from which certain lamps and devices shall render objects visible or within which such lamps or devices shall be visible such provisions shall apply during the times stated in Section 345.02 in respect to a vehicle without load when upon a straight, level, unlighted street or highway under normal atmospheric conditions unless a different time or condition is expressly stated.

(b) Whenever requirement is hereinafter declared as to the mounted height of lamps or devices it shall mean from the center of such lamp or device to the level ground upon which the vehicle stands when such vehicle is without a load.

(WVaC 17C-15-3)

345.04 HEADLIGHTS ON MOTOR VEHICLES AND MOTORCYCLES.

(a) Every motor vehicle other than a motorcycle, motor-driven cycle or moped shall be equipped with at least two head lamps with at least one on each side of the front of the motor vehicle, which head lamps shall comply with the requirements and limitations set forth in this article.

(b) Every motorcycle, motor-driven cycle and moped shall be equipped with at least one and not more than two head lamps which shall comply with the requirements and limitations of this article.

(c) Every head lamp upon every motor vehicle, including every motorcycle, motor-driven cycle and moped, shall be located at a height measured from the center of the head lamp of not more than fifty-four inches nor less than twenty-four inches to be measured as set forth in Section 345.03.

(WVaC 17C-15-4)

345.05 TAIL LIGHT; ILLUMINATION OF REAR LICENSE PLATE.

(a) Every motor vehicle, trailer or semitrailer, and any other vehicle which is being drawn at the end of a train of vehicles, shall be equipped with at least one tail lamp mounted on the rear, which, when lighted as hereinbefore required, shall emit a red light plainly visible from a distance of 500 feet to the rear, provided that in the case of a train of vehicles only the tail lamp on the rearmost vehicle need actually be seen from the distance specified.

(b) Every tail lamp upon every vehicle shall be located at a height of not more than sixty inches nor less than twenty inches to be measured as set forth in Section 345.03(b).

(c) Either a tail lamp or a separate lamp shall be so constructed and placed as to illuminate with a white light the rear registration plate and render it clearly legible from a distance of fifty feet to the rear. Any tail lamp or tail lamps, together with any separate lamp for illuminating the rear registration plate, shall be so wired as to be lighted whenever the head lamps or auxiliary driving lamps are lighted.

(WVaC 17C-15-5)

345.06 RED LIGHT OR RED FLAG ON EXTENDED LOADS.

Whenever the load upon any vehicle extends to the rear four feet or more beyond the bed or body of such vehicle there shall be displayed at the extreme rear end of the load, at the times specified in Section 345.02, a red light or lantern plainly visible from a distance of at least 500 feet to the sides and rear. The red light or lantern required under this section shall be in addition to the red rear light required upon every vehicle. At any time there shall be displayed at the extreme rear end of such load a red flag or cloth not less than twelve inches square and so hung that the entire area is visible to the driver of a vehicle approaching from the rear.

(WVaC 17C-15-14)

345.07 LIGHTS ON PARKED OR STOPPED VEHICLES.

(a) Whenever a vehicle is lawfully parked upon a street or highway during the hours between sunset and sunrise and in the event there is sufficient light to reveal any person or object within a distance of 500 feet upon such street or highway no lights need be displayed upon such parked vehicle.

(b) Whenever a vehicle is parked or stopped upon a roadway or shoulder adjacent thereto, whether attended or unattended, during the hours between sunset and sunrise and there is not sufficient light to reveal any person or object within a distance of 500 feet upon such street or highway, such vehicle so parked or stopped shall be equipped with one or more lamps meeting the following requirements: At least one lamp shall display a white or amber light visible from a distance of 500 feet to the front of the vehicle, and the same lamp or at least one other lamp shall display a red light visible from a distance of 500 feet to the rear of the vehicle, and the location of such lamp or lamps shall always be such that at least one lamp or combination of lamps meeting the requirements of this section is installed as near as practicable to the side of the vehicle which is closest to passing traffic. The foregoing provisions shall not apply to a motorcycle, motor-driven cycle or moped.

(c) Any lighted head lamps upon a parked vehicle shall be depressed or dimmed.
(WVaC 17C-15-15)

345.08 LIGHTS ON SLOW-MOVING VEHICLES.

All vehicles including animal-drawn vehicles and including those referred to in Section 345.01(c) not hereinbefore specifically required to be equipped with lamps, shall at the times specified in Section 345.02 be equipped with at least one lighted lamp or lantern exhibiting a white light visible from a distance of 500 feet to the front of such vehicle and with a lamp or lantern exhibiting a red light visible from a distance of 500 feet to the rear.
(WVaC 17C-15-16)

345.09 SPOTLIGHTS AND AUXILIARY LIGHTS.

(a) Spot Lamps. Any motor vehicle except a public utility company maintenance vehicle may be equipped with not more than one spot lamp and every lighted spot lamp shall be so aimed and used upon approaching another vehicle that no part of the high-intensity portion of the beam will be directed to the left of the prolongation of the extreme left side of the vehicle nor more than 100 feet ahead of the vehicle. A public utility company maintenance vehicle may be equipped with more than one spot lamp but all lighted spot lamps shall be aimed and used in conformity to the requirements of this subsection.

(b) Fog Lamps. Any motor vehicle may be equipped with not more than two fog lamps mounted on the front at a height not less than twelve inches nor more than thirty inches above the level surface upon which the vehicle stands and so aimed that when the vehicle is not loaded none of the high-intensity portion of the light to the left of the center of the vehicle shall at a distance of twenty-five feet ahead project higher than a level of four inches below the level of the center of the lamp from which it comes.

(c) Auxiliary Passing Lamp. Any motor vehicle may be equipped with not more than one auxiliary passing lamp mounted on the front at a height not less than twenty-four inches nor more than forty-two inches above the level surface upon which the vehicle stands and every auxiliary passing lamp shall meet the requirements and limitations set forth in this article.

(d) Auxiliary Driving Lamp. Any motor vehicle may be equipped with not more than one auxiliary driving lamp mounted on the front at a height not less than sixteen inches nor more than forty-two inches above the level surface upon which the vehicle stands and every such auxiliary driving lamp shall meet the requirements and limitations set forth in this article.

(e) Roof-Mounted Off-Road Light Bar Lighting Device. Any motor vehicle may be equipped with a roof-mounted off-road light bar lighting device comprised of multiple lamps: provided, that whenever the vehicle is operated or driven upon any road or highway, the roof-mounted off-road light bar lighting device shall be turned off and covered with an opaque covering that prohibits light from being emitted while the vehicle is being operated on any road or highway. (WVaC 17C-15-17)

345.10 SIGNAL LAMPS AND SIGNAL DEVICES.

(a) Any motor vehicle may be equipped and when required under this Traffic Code shall be equipped with the following signal lamps or devices:

- (1) A stop lamp on the rear which shall emit a red or yellow light and which shall be actuated upon application of the service (foot) brake and which may but need not be incorporated with a tail lamp.
- (2) A lamp or lamps or mechanical signal device capable of clearly indicating any intention to turn either to the right or to the left and which shall be visible both from the front and rear.

(b) A stop lamp shall be plainly visible and understandable from a distance of 100 feet to the rear both during normal sunlight and at nighttime and signal lamp or lamps indicating intention to turn shall be visible and understandable during daytime and nighttime from a distance of 100 feet both to the front and rear. When a vehicle is equipped with a stop lamp or other signal lamps, such lamp or lamps shall at all times be maintained in good working condition. No stop lamp or signal lamp shall project a glaring or dazzling light.

(c) All mechanical signal devices shall be self-illuminated when in use at the times mentioned in Section 345.02. (WVaC 17C-15-18)

345.11 COWL, FENDER AND BACK-UP LIGHTS; FLASHING HAZARD LIGHTS.

(a) Any motor vehicle may be equipped with not more than two side cowl or fender lamps which shall emit an amber or white light without glare.

(b) Any motor vehicle may be equipped with not more than one running-board courtesy lamp on each side thereof which shall emit a white or amber light without glare.

(c) Except for school buses as provided in this subsection, any motor vehicle may be equipped with not more than two back-up lamps either separately or in combination with other lamps, but any such back-up lamp shall not be lighted when the motor vehicle is in forward motion. School buses used for the transportation of school children in this Municipality, whether owned and operated by a county board of education or privately owned and operated under contract with a county board of education, shall be equipped with two back-up lamps, one on each side of the rear door, with white lens or reflectors, capable of lighting the roadway and objects to the rear of the bus for safe backing during darkness, and which, at the option of the county board of education, may each provide fifty candlepower in illumination intensity instead of thirty-two candlepower.

(d) Any vehicle may be equipped with lamps which may be used for the purpose of warning the operators of other vehicles of the presence of a vehicular traffic hazard requiring the exercise of unusual care in approaching, overtaking or passing, and when so equipped may display such warning in addition to any other warning signals required by this article. The lamps used to display such warning to the front shall be mounted at the same level and as widely spaced laterally as practicable and shall display simultaneously flashing white or amber lights, or any shade of color between white and amber. The lamps used to display such warning to the rear shall be mounted at the same level and as widely spaced laterally as practicable, and shall show simultaneously flashing amber or red lights or any shade of color between amber and red.

(e) Vehicles used by "rural mail carriers" in carrying or delivering mail in rural areas may be equipped with amber flashing lights. Such lights shall be on the front and rear of the vehicle and may be activated when the vehicle is stopped or decreasing speed in order to stop in the course of carrying, delivering or picking up mail along the route.

(f) Notwithstanding any other provision of this Code to the contrary, any motor vehicle may be equipped with not more than one electroluminescent solid state ceramic front identification plate without glare, mounted in conformance with the manufacturer's specifications.

(g) Vehicles used as the lead car in a funeral procession are hereby authorized to be equipped with, but are not required to use, purple lamps or purple flashing lights. Such lamps may be used for the purpose of warning the operators of other vehicles of the presence of a vehicular traffic hazard requiring the exercise of unusual care in approaching, overtaking or passing a funeral procession, and when so equipped may display such warning in addition to any other warning signals required by this article. The lamps or flashing lights used to display such warning to the front shall be mounted at the same level and as widely spaced laterally as practicable and shall display simultaneously either illuminating or flashing purple lights. The lamps used to display such warning to the rear shall be mounted at the same level and as widely spaced laterally as practicable, and shall show simultaneously flashing or illuminated purple lights. (WVaC 17C-15-19)

345.12 MULTIPLE-BEAM ROAD-LIGHTING EQUIPMENT REQUIREMENTS.

Except as hereinafter provided, the head lamps or the auxiliary driving lamp or the auxiliary passing lamp or combinations thereof on motor vehicles other than a motorcycle, motor-driven cycle or moped shall be so arranged that the driver may select at will between distributions of light projected to different elevations and such lamps may, in addition, be so arranged that such selection can be made automatically, subject to the following limitations:

- (a) There shall be an uppermost distribution of light, or composite beam, so aimed and of such intensity as to reveal persons and vehicles at a distance of at least 350 feet ahead for all conditions of loading.
- (b) There shall be a lowermost distribution of light, or composite beam, so aimed and of sufficient intensity to reveal persons and vehicles at a distance of at least 100 feet ahead; and on a straight level road under any condition of loading none of the high-intensity portion of the beam shall be directed to strike the eyes of an approaching driver.

- (c) Every new motor vehicle, other than a motorcycle, motor-driven cycle or moped, registered in the State after January 1, 1952, which has multiple-beam road-lighting equipment shall be equipped with a beam indicator, which shall be lighted whenever the uppermost distribution of light from the head lamps is in use, and shall not otherwise be lighted. Such indicator shall be so designed and located that when lighted it will be readily visible without glare to the driver of the vehicle so equipped. (WVaC 17C-15-20)

345.13 USE OF HEADLIGHT BEAMS.

Whenever a motor vehicle is being operated on a roadway or shoulder adjacent thereto during the times specified in Section 345.02, the driver shall use a distribution of light, or composite beam, directed high enough and of sufficient intensity to reveal persons and vehicles at a safe distance in advance of the vehicle, subject to the following requirements and limitations:

- (a) Whenever a driver of a vehicle approaches an oncoming vehicle within 500 feet, such driver shall use a distribution of light, or composite beam, so aimed that the glaring rays are not projected into the eyes of the oncoming driver. The lowermost distribution of light, or composite beam specified in Section 345.12(b) shall be deemed to avoid glare at all times regardless of road contour and loading.
- (b) Whenever the driver of a vehicle follows another vehicle within 200 feet to the rear, except when engaged in the act of overtaking and passing, such driver shall use a distribution of light permissible under this Traffic Code other than the uppermost distribution of light specified in Section 345.12(a). (WVaC 17C-15-21)

345.14 SINGLE-BEAM ROAD-LIGHTING EQUIPMENT.

Head lamps arranged to provide a single distribution of light shall be permitted on motor vehicles manufactured and sold prior to July 1, 1952 in lieu of multiple-beam road-lighting equipment herein specified if the single distribution of light complies with the following requirements and limitations:

- (a) The head lamps shall be so aimed that when the vehicle is not loaded none of the high-intensity portion of the light shall at a distance of twenty-five feet ahead project higher than a level of five inches below the level of the center of the lamp from which it comes, and in no case higher than forty-two inches above the level on which the vehicle stands at a distance of seventy-five feet ahead.
- (b) The intensity shall be sufficient to reveal persons and vehicles at a distance of at least 200 feet. (WVaC 17C-15-22)

345.15 LIGHTS ON MOTORCYCLES, MOTOR-DRIVEN CYCLES AND MOPEDS.

The head lamp or head lamps upon every motorcycle, motor-driven cycle and moped may be of the single-beam or multiple-beam type but in either event shall comply with the requirements and limitations as follows:

- (a) Every such head lamp or head lamps shall be of sufficient intensity to reveal a person or a vehicle at a distance of not less than 100 feet when the motorcycle, motor-driven cycle or moped is operated at any speed less than twenty-five miles per hour and at a distance of not less than 200 feet when it is operated at a speed of twenty-five or more miles per hour.
- (b) In the event the motorcycle, motor-driven cycle or moped is equipped with a multiple-beam type head lamp or head lamps the upper beam shall meet the minimum requirements set forth above and shall not exceed the limitations set forth in Section 345.12(a) and the lowermost beam shall meet the requirements applicable to a lowermost distribution of light as set forth in Section 345.12(b).

- (c) In the event the motorcycle, motor-driven cycle or moped is equipped with a single-beam lamp or lamps such lamp or lamps shall be so aimed that when the vehicle is loaded none of the high-intensity portion of light, at a distance of twenty-five feet ahead, shall project higher than the level of the center of the lamp from which it comes. (WVaC 17C-15-23)

345.16 ALTERNATE ROAD-LIGHTING EQUIPMENT.

Any motor vehicle may be operated under the conditions specified in Section 345.02 when equipped with two lighted lamps upon the front thereof capable of revealing persons and objects seventy-five feet ahead in lieu of lamps required in Section 345.12, or Section 345.14, provided that at no time shall it be operated at a speed in excess of twenty miles per hour.
(WVaC 17C-15-24)

345.17 NUMBER OF DRIVING LIGHTS REQUIRED OR PERMITTED.

(a) At all times specified in Section 345.02 at least two lighted lamps shall be displayed, one on each side at the front of every motor vehicle other than a motorcycle, motor-driven cycle or moped, except when such vehicle is parked subject to the regulations governing lights on parked vehicles.

(b) Whenever a motor vehicle equipped with head lamps as herein required is also equipped with any auxiliary lamps or a spot lamp or any other lamp on the front thereof projecting a beam of intensity greater than 300 candlepower, not more than a total of four of any such lamps on the front of a vehicle shall be lighted at any one time when upon a street or highway.
(WVaC 17C-15-25)

345.18 SPECIAL RESTRICTIONS ON LIGHTS.

(a) Any lighted lamp or illuminating device upon a motor vehicle other than head lamps, spot lamps, auxiliary lamps or flashing front-direction signals which projects a beam of light of an intensity greater than 300 candlepower shall be so directed that no part of the beam will strike the level of the roadway on which the vehicle stands at a distance of more than seventy-five feet from the vehicle.

(b) No person shall drive or move any vehicle or equipment upon any street or highway with any lamp or device thereon displaying other than a white or amber light visible from directly in front of the center thereof except as authorized by subsection (d) hereof.

(c) Except as authorized in subsections (d) and (f) of this section and Section 345.11, flashing lights are prohibited on motor vehicles: Provided, that any vehicle as a means for indicating right or left turn, or any vehicle as a means of indicating the same is disabled or otherwise stopped for an emergency may have blinking or flashing lights.

(d) Notwithstanding any other provisions of this Traffic Code, the following colors of flashing warning lights are restricted for the use of the type of vehicle designated:

- (1) Blue flashing warning lights are restricted to police vehicles. Authorization for police vehicles shall be designated by the chief administrative official of each police department.

- (2) Except for standard vehicle equipment authorized by Section 345.11, red flashing warning lights are restricted to the following:
- A. Ambulances;
 - B. Fire-fighting vehicles;
 - C. Hazardous material response vehicles;
 - D. Industrial fire brigade vehicles;
 - E. Rescue squad vehicles not operating out of a fire department;
 - F. School buses;
 - G. Class A vehicles, as defined by West Virginia Code 17A-10-1 of those firefighters who are authorized by their fire chiefs to have the lights;
 - H. Class A vehicles of members of duly chartered rescue squads not operating out of a fire department;
 - I. Class A vehicles of members of ambulance services or duly chartered rescue squads who are authorized by their respective chiefs to have the lights;
 - J. Class A vehicles of out-of-state residents who are active members of West Virginia fire departments, ambulance services or duly chartered rescue squads who are authorized by their respective chiefs to have the lights; and
 - K. West Virginia Department of Agriculture emergency response vehicles.
 - L. Vehicles designated by the Secretary of the Department of Military Affairs and Public Safety for emergency response or emergency management by the Division of Corrections, Regional Jail and Correctional Facility Authority, Division of Juvenile Services and Division of Homeland Security and Emergency Management; and
 - M. Class A vehicles of emergency response or emergency management personnel as designated by the Secretary of the Department of Military Affairs and Public Safety and the county commission of the county of residence.

Red flashing warning lights attached to a Class A vehicle shall be operated only when responding to or engaged in handling an emergency requiring the attention of the firefighters, members of the ambulance services or chartered rescue squads.

- (3) The use of red flashing warning lights shall be authorized as follows:
- A. Authorization for all ambulances shall be designated by the Department of Health and Human Resources and the sheriff of the county of residence.
 - B. Authorization for all fire department vehicles shall be designated by the Fire Chief and the State Fire Marshal's Office.
 - C. Authorization for all hazardous material response vehicles and industrial fire brigades shall be designated by the Chief of the Fire Department and the State Fire Marshal's Office.
 - D. Authorization for all rescue squad vehicles not operating out of a fire department shall be designated by the squad chief, the sheriff of the county of residence and the Department of Health and Human Resources.
 - E. Authorization for school buses shall be designated as set out in West Virginia Code 17C-14-12.
 - F. Authorization for firefighters to operate Class A vehicles shall be designated by their fire chiefs and the State Fire Marshal's Office.

- G. Authorization for members of ambulance services or any other emergency medical service personnel to operate Class A vehicles shall be designated by their chief official, the Department of Health and Human Resources and the sheriff of the county of residence.
 - H. Authorization for members of duly chartered rescue squads not operating out of a fire department to operate Class A vehicles shall be designated by their squad chiefs, the sheriff of the county of residence and the Department of Health and Human Resources.
 - I. Authorization for out-of-state residents operating Class A vehicles who are active members of a West Virginia fire department, ambulance services or duly chartered rescue squads shall be designated by their respective chiefs.
 - J. Authorization for West Virginia Department of Agriculture emergency response vehicles shall be designated by the Commissioner or the Department of Agriculture.
 - K. Authorization for vehicles for emergency response or emergency management by the Division of Corrections, Regional Jail and Correctional Facility Authority, Division of Juvenile Services and Division of Homeland Security and Emergency Management shall be designated by the Secretary of the Department of Military Affairs and Public Safety.
 - L. Authorization for Class A vehicles of emergency response or emergency management personnel as designated by the Secretary of the Department of Military Affairs and Public Safety and the county commission of the county of residence.
- (4) Yellow or amber flashing warning lights are restricted to the following:
- A. All other emergency vehicles, including tow trucks and wreckers, authorized by the West Virginia Code Chapter 17C and 17C-15-27;
 - B. Postal service vehicles and rural mail carriers, as authorized in Section 345.11;
 - C. Rural newspaper delivery vehicles;
 - D. Flag car services;
 - E. Vehicles providing road service to disabled vehicles;
 - F. Service vehicles of a public service corporation;
 - G. Snow removal equipment; and
 - H. School buses; and
 - I. Automotive fire apparatus owned by a municipality or other political subdivision, by a volunteer or part-volunteer fire company or department or by an industrial fire brigade.
- (5) The use of yellow or amber flashing warning lights shall be authorized as follows:
- A. Authorization for tow trucks, wreckers, rural newspaper delivery vehicles, flag car services, vehicles providing road service to disabled vehicles, service vehicles of a public service corporation and postal service vehicles shall be designated by the sheriff of the county of residence.
 - B. Authorization for snow removal equipment shall be designated by the Commissioner of the Division of Highways.
 - C. Authorization for school buses shall be designated as set out in West Virginia Code 17C-14-12.

- D. Authorization for automotive fire apparatus shall be designated by the Fire Chief in conformity with the NFPA 1901 standard for automotive fire apparatus as published by the National Fire Protection Association (NFPA) on July 18, 2003, and adopted by the State Fire Commission by legislative rule (87 CSR 1, et seq.), except as follows:
1. With the approval of the State Fire Marshal, used automotive fire apparatus may be conformed to the NFPA standard in effect on the date of its manufacture or conformed to a later NFPA standard, and
 2. Automotive fire apparatus may be equipped with blinking or flashing headlamps.

(e) Notwithstanding the foregoing provisions of this section, any vehicle belonging to a county board of education, an organization receiving funding from the state or federal transit administration for the purpose of providing general public transportation, or hauling solid waste may be equipped with a white flashing strobotron warning light. This strobe light may be installed on the roof of a school bus, a public transportation vehicle, or a vehicle hauling solid waste not to exceed one-third the body length forward from the rear of the roof edge. The light shall have a single clear lens emitting light three hundred sixty degrees around its vertical axis and may not extend above the roof more than six and one-half inches. A manual switch and a pilot light must be included to indicate the light is in operation.

(f) No person shall install or use flashing warning lights of an unauthorized color on a vehicle other than as specified in this section, except that a police vehicle may be equipped with either or both blue or red warning lights. (WVaC 17C-15-26)

345.19 MOTOR VEHICLE OR MOTORCYCLE BRAKES.

(a) Brake Equipment Required.

- (1) Every motor vehicle, other than a motorcycle, motor-driven cycle or moped, when operated upon a street or highway shall be equipped with brakes adequate to control the movement of and to stop and hold such vehicle, including two separate means of applying the brakes, each of which means shall be effective to apply the brakes to at least two wheels. If these two separate means of applying the brakes are connected in any way, they shall be so constructed that failure of any one part of the operating mechanism shall not leave the motor vehicle without brakes on at least two wheels.
- (2) Every motorcycle, motor-driven cycle and moped, when operated upon a street or highway, shall be equipped with at least one brake which may be operated by hand or foot.
- (3) Every trailer or semitrailer of a gross weight of 3,000 pounds or more when operated upon a street or highway shall be equipped with brakes adequate to control the movement of and to stop and to hold such vehicle and so designed as to be applied by the driver of the towing motor vehicle from its cab, and such brakes shall be so designed and connected that in case of an accidental breakaway of the towed vehicle the brakes shall be automatically applied.
- (4) Every new motor vehicle, trailer or semitrailer hereinafter sold in this State and operated upon the streets or highways shall be equipped with service brakes upon all wheels, with the following exceptions:
 - A. Trucks and truck-tractors having three or more axles need not have brakes on the front wheels, except when such vehicles are equipped

- with at least two steerable axles, the wheels of one such axle need not be equipped with brakes, and
- B. Any motorcycle, motor-driven cycle or moped and any semitrailer of less than 1,500 pounds gross weight need not be equipped with brakes.
- (5) In any combination of motor-driven vehicles, means shall be provided for applying the rearmost trailer brakes, of any trailer equipped with brakes, in approximate synchronism with the brakes on the towing vehicle and developing the required braking effort on the rearmost wheels at the fastest rate; or means shall be provided for applying braking effort first on the rearmost trailer equipped with brakes; or both of the above means capable of being used alternatively may be employed.
 - (6) Every such vehicle and combination of vehicles, except motorcycles, motor-driven cycles and mopeds, shall be equipped with parking brakes adequate to hold the vehicle on any grade on which it is operated, under all conditions of loading on a surface free from snow, ice or loose material. The parking brakes shall be capable of being applied in conformance with the foregoing requirements by the driver's muscular effort or by spring action or by equivalent means. Their operation may be assisted by the service brakes or other source of power provided that failure of the service brake actuation system or other power assisting mechanism will not prevent the parking brakes from being applied in conformance with the foregoing requirements. The parking brakes shall be so designed that when once applied they shall remain applied with the required effectiveness despite exhaustion of any source of energy or leakage of any kind.
The same brake drums, brake shoes and lining assemblies, brake shoe anchors and mechanical brake shoe actuation mechanism normally associated with the wheel brake assemblies may be used for both the service brakes and the parking brakes. If the means of applying the parking brakes and the service brakes are connected in any way, they shall be so constructed that a failure of any one part shall not leave the vehicle without operative brakes.
 - (7) The brake shoes operating within or upon the drums on the vehicle wheels of any motor vehicle may be used for both service and hand operation.

(b) Performance Ability of Brakes. Every motor vehicle or combination of motor-drawn vehicles shall be capable, at all times and under all conditions of loading, of being stopped on a dry, smooth, level road free from loose material, upon application of the service (foot) brake, within the distances specified below, or shall be capable of being decelerated at a sustained rate corresponding to these distances:

	<u>Feet to stop from 20 miles per hour</u>	<u>Deceleration in feet per second</u>
Vehicle or combinations of vehicles having brakes on all wheels	30	14
Vehicles or combinations of vehicles not having brakes on all wheels	40	10.7

(c) Maintenance of Brakes. All brakes shall be maintained in good working order and shall be so adjusted as to operate as equally as practicable with respect to the wheels on opposite sides of the vehicle. (WVaC 17C-15-31)

345.20 INSPECTION OF BRAKES ON MOTORCYCLES, MOTOR-DRIVEN CYCLES AND MOPEDS.

No person shall operate on any street or highway any motorcycle, motor-driven cycle or moped in the event the Commissioner of Highways has disapproved the brake equipment upon such vehicle or type of vehicle. (WVaC 17C-15-32)

345.21 HORN, SIREN AND THEFT ALARM SIGNAL.

(a) Every motor vehicle when operated upon a street or highway shall be equipped with a horn in good working order and capable of emitting sound audible under normal conditions from a distance of not less than 200 feet, but no horn or other warning device shall emit an unreasonably loud or harsh sound or a whistle. The driver of a motor vehicle shall when reasonably necessary to insure safe operation give audible warning with his horn but shall not otherwise use such horn when upon a street or highway.

(b) No vehicle shall be equipped with nor shall any person use upon a vehicle any siren, whistle or bell, except as otherwise permitted in this section.

(c) It is permissible but not required that any commercial vehicle be equipped with a theft alarm signal device which is so arranged that it cannot be used by the driver as an ordinary warning signal.

Any authorized emergency vehicle may be equipped with a siren, whistle or bell, capable of emitting sound audible under normal conditions from a distance of not less than 500 feet and of a type approved by the Department of Motor Vehicles, but such siren shall not be used except when such vehicle is operated in response to an emergency or in the immediate pursuit of an actual or suspected violator of the law, in which such latter events the driver of such vehicle shall sound such siren when reasonably necessary to warn pedestrians and other drivers of the approach thereof. (WVaC 17C-15-33)

345.22 MUFFLER; MUFFLER CUTOUT; EXCESSIVE SMOKE, GAS OR NOISE.

(a) Every motor vehicle shall at all times be equipped with a muffler in good working order and in constant operation to prevent excessive or unusual noise. Such muffler shall be the muffler originally installed by the manufacturer of the vehicle or, if a replacement, the equivalent thereof. No person shall use a muffler cutout, bypass or similar device upon a motor vehicle on a street or highway.

(b) The engine and power mechanism of every motor vehicle shall be so equipped and adjusted as to prevent the escape of excessive fumes or smoke. (WVaC 17C-15-34)

345.23 REAR-VIEW MIRROR.

Every motor vehicle which is so constructed or loaded as to obstruct the driver's view to the rear thereof from the driver's position shall be equipped with a mirror so located as to reflect to the driver a view of the street or highway for a distance of at least 200 feet to the rear of such vehicle. (WVaC 17C-15-35)

345.24 WINDSHIELD TO BE UNOBSTRUCTED; WINDSHIELD WIPER.

(a) No person shall drive any motor vehicle with any sign, poster or other nontransparent material upon the front windshield, side wings or side or rear windows of such vehicle which obstructs the driver's clear view of the street or highway or any intersecting street or highway.

(b) The windshield on every motor vehicle shall be equipped with a device for cleaning rain, snow or other moisture from the windshield, which device shall be so constructed as to be controlled or operated by the driver of the vehicle.

(c) Every windshield wiper upon a motor vehicle shall be maintained in good working order. (WVaC 17C-15-36)

345.25 TIRE EQUIPMENT RESTRICTIONS.

(a) Every solid rubber tire on a vehicle shall have rubber on its entire traction surface at least one inch thick above the edge of the flange of the entire periphery.

(b) No person shall operate or move on any highway any motor vehicle, trailer or semitrailer having any metal tire in contact with the roadway.

(c) No tire on a vehicle moved on a highway shall have on its periphery any block, stud, flange, cleat or spike or any other protuberance of any material other than rubber which projects beyond the tread of the traction surface of the tire, except that:

- (1) It shall be permissible to use farm machinery with tires having protuberances which will not injure the street or highway;
- (2) It shall be permissible to use tire chains of reasonable proportions upon any vehicle when required for safety because of snow, ice or other conditions tending to cause a vehicle to skid; and
- (3) It shall be permissible to use studded tires during the period from November 1, of each year until April 15 of the following year. Provided that in the interest of highway maintenance, no vehicle moved on a street or highway, other than school buses, shall be equipped with studded tires which are operational with a recommended air pressure greater than forty pounds per square inch.

(d) No studded tires or chains shall be sold or used within the Municipality which do not meet the specifications established by the rules and regulations which the Commissioner of Highways shall promulgate.

(e) Council may in its discretion issue special permits authorizing the operation upon the street or highway of traction engines or tractors having movable tracks with transverse corrugations upon the periphery of such movable tracks or farm tractors or other farm machinery, the operation of which upon a highway would otherwise be prohibited under this Traffic Code. (WVaC 17C-15-37)

345.26 SAFETY GLASS IN MOTOR VEHICLES.

(a) On and after July 1, 1951, no person shall operate any motor vehicle as specified herein, nor shall any motor vehicle as specified herein be registered thereafter unless such vehicle is equipped with safety glass of a type approved by the Commissioner of Highways wherever glass is used in doors, windows and windshields. The foregoing provisions shall apply to all passenger-type motor vehicles, including passenger buses and school buses, but in respect to trucks, including truck tractors, the requirements as to safety glass shall apply to all glass used in doors, windows, and windshields in the drivers' compartments of such vehicles.

(b) The term "safety glass" shall mean any product composed of glass, so manufactured, fabricated or treated as substantially to prevent shattering and flying of the glass when struck or broken, or such other or similar product as may be approved by the Commissioner. (WVaC 17C-15-38)

345.27 VEHICLES TRANSPORTING EXPLOSIVES.

Any person operating any vehicle transporting any explosive as a cargo or part of a cargo upon a street or highway shall at all times comply with the provisions of this section.

- (a) Such vehicle shall be marked or placarded on each side and the rear with the word "Explosives" in letters not less than eight inches high, or there shall be displayed on the rear of such vehicle a red flag not less than twenty-four inches square marked with the word "Danger" in white letters six inches high.
- (b) Every such vehicle shall be equipped with not less than two fire extinguishers, filled and ready for immediate use and placed at a convenient point on the vehicle so used.
(WVaC 17C-15-41)

345.28 TELEVISION RECEIVER IN DRIVER'S VIEW PROHIBITED.

No motor vehicle shall be operated on any street or highway in this Municipality when equipped with a television receiver unless such receiver is so placed that the screen or picture tube of such receiver is visible only in the rear seat of such motor vehicle and not in view of the operator of such motor vehicle. (WVaC 17C-15-42)

345.29 SAFETY EQUIPMENT FOR MOTORCYCLISTS, MOTORCYCLES, MOTOR-DRIVEN CYCLES AND MOPEDS.

(a) No person shall operate or be a passenger on any motorcycle or motor-driven cycle unless he is wearing securely fastened on his head by either a neck or chin strap a protective helmet designed to deflect blows, resist penetration and spread impact forces. Any helmet worn by an operator or passenger shall meet the current performance specifications established by the American National Standards Institute Standard, Z 90.1, the United States Department of Transportation Federal Motor Vehicle Safety Standard No. 218 or Snell Safety Standards for Protective Headgear for Vehicle Users.

(b) No person shall operate or be a passenger on any motorcycle or motor-driven cycle unless he is wearing safety, shatter-resistant eyeglasses (excluding contact lenses), or eyegoggles or face shield that complies with the performance specifications established by the American National Standards Institute for Head, Eye and Respiratory Protection, Z 2.1. In addition, if any motorcycle, motor-driven cycle or moped is equipped with a windshield or windscreen, the windshield or windscreen shall be constructed of safety, shatter-resistant material that complies with the performance specifications established by Department of Transportation Federal Motor Vehicle Safety Standard No. 205 and American National Standards Institute, Safety Glazing Materials for Glazing Motor Vehicles Operated on Land Highways, Standard Z 26.1.

(c) No person shall operate a motorcycle, motor-driven cycle or moped on which the handlebars or grips are more than fifteen inches higher than the uppermost part of the operator's seat when the seat is not depressed in any manner.

(d) A person operating a motorcycle, motor-driven cycle or moped shall ride in a seated position facing forward and only upon a permanent operator's seat attached to the vehicle. No operator shall carry any other person nor shall any other person ride on such a vehicle unless the vehicle is designed to carry more than one person, in which event a passenger may ride behind the operator upon the permanent operator's seat if it is designed for two persons, or upon another seat firmly attached to the vehicle to the rear of the operator's seat and equipped with footrests designed and located for use by the passenger or in a sidecar firmly attached to the vehicle. No person shall ride sidesaddle on a seat. An operator may carry as many passengers as there are seats and footrests to accommodate those passengers. Additional passengers may be carried in a factory produced side car provided that there is one passenger per seat. Passengers riding in a sidecar shall be restrained by safety belts.

(e) Every motorcycle, motor-driven cycle and moped shall be equipped with a rearview mirror affixed to the handlebars or fairings and adjusted so that the operator shall have a clear view of the road and condition of traffic behind him for a distance of at least 200 feet.
(WVaC 17C-15-44)

345.30 CERTIFICATION LABELS ON MOPEDS.

Every moped sold in this Municipality shall have permanently affixed to it a certification label which shall contain the following information:

- (1) Name of manufacturer;
- (2) Month and year of manufacture;
- (3) Gross vehicle weight rating (GVWR);
- (4) Gross axle weight rating for front and rear axles (GAWR);
- (5) Vehicle identification number;
- (6) Classification type; and
- (7) Statement of conformance to Federal standards as required by Federal law.
(WVaC 17C-15-45)

345.31 CHILD PASSENGER SAFETY DEVICES REQUIRED; CHILD SAFETY SEATS AND BOOSTER SEATS.

Every driver who transports a child under the age of eight years in a passenger automobile, van or pickup truck other than one operated for hire shall, while the motor vehicle is in motion and operated on a street or highway, provide for the protection of the child by properly placing, maintaining and securing the child in a child passenger safety device system meeting applicable federal motor vehicle safety standards; provided, that if a child is under the age of eight years and at least four feet nine inches tall, a safety belt shall be sufficient to meet the requirements of this section.

Any person who violates any provision of this section shall be fined not less than ten dollars (\$10.00) nor more than twenty dollars (\$20.00).

A violation of this section does not by virtue of the violation constitute evidence of negligence or contributory negligence or comparative negligence in any civil action or proceeding for damages.

If any provision of this section or the application thereof to any person or circumstance is held invalid, the invalidity may not affect other provisions or applications of this section and to this end the subsections of this section are declared to be severable.

If all seat belts in a vehicle are being used at the time of examination by a law officer and the vehicle contains more passengers than the total number of seat belts or other safety devices as installed in compliance with federal motor vehicle safety standards, the driver may not be considered in violation of this section. (WVaC 17C-15-46)

345.32 CERTIFICATE OF INSPECTION AND APPROVAL.

No owner or operator of any vehicle required to be inspected under West Virginia Code Article 17C-16 shall operate or permit to be operated such vehicle without having displayed thereon a current and valid certificate of inspection and approval or fail to produce same upon demand of any authorized person as therein designated.
(WVaC 17C-16-9)

345.33 ALTERATION OF MOTOR VEHICLES; BUMPER HEIGHT LIMITS.

(a) No person shall operate upon a public street or highway any motor vehicle registered or required to be registered in this State if it has been modified by alteration of its height from the ground to the extent that its bumpers, measured to any point on the lower edge of the main horizontal bumper bar, exclusive of any bumper guards, do not fall within the limits specified herein for its gross vehicle weight rating category. The front and rear bumper height of motor vehicles whose gross vehicle weight rating is 10,000 pounds or less shall be no less than six inches and no more than thirty-one inches. In the absence of bumpers, and in cases where bumper heights have been altered or modified, height measurements shall be made to the bottom of the frame rail. If a motor vehicle has a bumper, the bumper must be at least three inches in vertical width, centered on the center line of the motor vehicle and not less than the width of the wheel track distance. The provisions of this subsection do not apply to motor vehicles with a gross vehicle weight rating in excess of 10,000 pounds. For the purpose of this subsection, the term "gross vehicle weight ratings" means the manufacturer's gross vehicle weight ratings established for that vehicle.

(b) The maximum distance between the vehicle body to the vehicle frame shall not exceed three inches. The distance from the vehicle body to the vehicle frame shall be measured from the vehicle body mount seat to the vehicle frame mount seat: provided, that the maximum distance limitation shall not prohibit a body lift kit up to three inches to be added to the manufacturer's original spacer between the body and the frame. No vehicle shall be modified to cause the vehicle body or chassis to come in contact with the ground, expose the fuel tank to damage from collision, or cause the wheels to come in contact with the body under normal operation. No part of the original suspension system may be disconnected to defeat the safe operation of the suspension system. Modification of the front end suspension by the use of lift blocks is expressly prohibited.

(c) Nothing contained in this section prevents the installation of heavy duty equipment, including shock absorbers and overload springs.

(d) Nothing contained in this section prohibits the operation on a public street or highway of a motor vehicle with normal wear to the suspension system if such normal wear does not adversely affect the control of the vehicle.

(e) This section does not apply to specially designed or modified motor vehicles when operated off the public streets and highways in races and similar events. Such motor vehicles may be lawfully towed on the streets and highways of this Municipality.

(f) Modifications to motor vehicles, not prohibited herein, shall be made subject to inspection as provided in subsection (h) hereof.

(g) Nothing contained in this section shall subject a vehicle modified solely by the installation of tires not larger than two sizes beyond the maximum specified by the manufacturer to inspection as provided in subsection (h) hereof.

(h) Any motor vehicle which has been altered from the manufacturer's specification with respect to bumper height for that vehicle make and model but within the allowable limits of subsection (a) hereof or any motor vehicle which has been altered from the manufacturer's specification for that vehicle make and model with respect to the distance from the vehicle body to vehicle frame but within the allowable limits of subsection (b) hereof may be operated upon a public street or highway in this Municipality, subject to inspection under West Virginia Code 17C-15-48: provided, that any motor vehicle which has been altered from the manufacturer's specification by lowering the bumper height for that vehicle make and model within the allowable limits of subsection (a) hereof shall be exempt from the inspection requirements hereunder and may be operated upon a public street or highway in this Municipality subject to provisions of West Virginia Code Chapter 17C-16. Each municipal law-enforcement agency must record on crash report forms whether a modified vehicle was involved in the crash.
(WVaC 17C-15-48)

345.34 SUN SCREENING DEVICES.

(a) No person may operate a motor vehicle that is registered or required to be registered in the State on any public highway, road or street that has a sun screening device on the windshield, the front side wings and side windows adjacent to the right and left of the driver and windows adjacent to the rear of the driver that do not meet the requirements of this section. Provided, that law-enforcement K-9 and other emergency vehicles that are designed to haul animals are exempt from this requirement.

(b) A sun screening device when used in conjunction with the windshield must be nonreflective and may not be red, yellow or amber in color. A sun screening device may be used only along the top of the windshield and may not extend downward beyond the ASI line or more than five inches from the top of the windshield whichever is closer to the top of the windshield.

(c) A sun screening device when used in conjunction with the automotive safety glazing materials of the side wings or side windows located at the immediate right and left of the driver shall be a nonreflective type with reflectivity of not more than twenty percent (20%) and have a light transmission of not less than thirty-five percent (35%). The side windows behind the driver and the rear most windows may have a sun screening device that is designed to be used on automotive safety glazing materials that has a light transmission of not less than thirty-five percent (35%) and a reflectivity of not more than twenty percent (20%). If a sun screening device is used on glazing behind the driver, one right and one left outside rear view mirror is required.

(d) Each manufacturer shall:

- (1) Certify to the State Police and Division of Motor Vehicles that a sun screening device used by it is in compliance with the reflectivity and transmittance requirements of this section;
- (2) Provide a label not to exceed one and one-half square inches in size, with a means for the permanent and legible installations between the sun screening material and each glazing surface to which it is applied that contains the manufacturer's name and its percentage of light transmission;
and

- (3) Include instructions with the product or material for proper installation, including the affixing of the label specified in this section. The labeling or marking must be placed in the left lower corner of each glazing surface when facing the vehicle from the outside.
- (e) No person shall:
- (1) Offer for sale or for use any sun screening product or material for motor vehicle use not in compliance with this section; or
 - (2) Install any sun screening product or material on vehicles intended for use on public roads without permanently affixing the label specified in this section.
- (f) The provisions of this section do not apply to a motor vehicle registered in this State in the name of a person, or the person's legal guardian, who has an affidavit signed by a physician or an optometrist licensed to practice in this State that states that the person has a physical condition that makes it necessary to equip the motor vehicle with sun screening material which would be of a light transmittance or luminous reflectance in violation of this section. The affidavit must be in the possession of the person so afflicted, or the person's legal guardian, at all times while being transported in the motor vehicle.
- (g) The light transmittance requirement of this section does not apply to windows behind the driver on trucks, buses, trailers, mobile homes and multipurpose passenger vehicles.
- (h) As used in this section:
- (1) "Bus" means a motor vehicle with motive power, except a trailer, designed for carrying more than ten persons.
 - (2) "Light transmission" means the ratio of the amount of total light to pass through a product or material to the amount of the total light falling on the product or material.
 - (3) "Luminous reflectants" means the ratio of the amount of total light that is reflected outward by the product or material to the amount of the total light falling on the product or materials.
 - (4) "Manufacturer" means any person engaged in the manufacturing or assembling of sun screening products or materials designed to be used in conjunction with vehicle glazing materials for the purpose of reducing the effects of the sun.
 - (5) "Motor homes" means vehicular units designed to provide temporary living quarters built into and an integral part of or permanently attached to a self-propelled motor vehicle chassis.
 - (6) "Multipurpose passenger vehicle" means a motor vehicle with motive power, except a trailer, designed to carry ten persons or less which is constructed either on a truck chassis or with special features for occasional offroad operation.

- (7) "Nonreflective" means a product or material designed to absorb light rather than to reflect it.
- (8) "Passenger car" means a motor vehicle with motive power, except a multipurpose passenger vehicle, motorcycle or trailer, designed for carrying ten persons or less.
- (9) "Sun screening device" means film material or device that is designed to be used in conjunction with motor vehicle safety glazing materials for reducing the effects of the sun.
- (10) "Truck" means a motor vehicle with motive power, except a trailer, designed primarily for the transportation of property or special purpose equipment.
(WVaC 17C-15-36a)

345.35 OPERATION OF VEHICLES WITH SAFETY BELTS.

(a) A person shall not operate a passenger vehicle on a public street or highway unless the person, any passenger in the back seat under eighteen years of age, and any passenger in the front seat of such passenger vehicle is restrained by a safety belt meeting applicable federal motor vehicle safety standards. For the purposes of this section, "passenger vehicle" means a motor vehicle which is designed for transporting ten passengers or less, including the driver, except that such term does not include a motorcycle, a trailer or any motor vehicle which is not required on the date of the enactment of this section under a federal motor vehicle safety standard to be equipped with a belt system. The provisions of this section shall apply to all passenger vehicles manufactured after the first day of January, 1967, and being 1968 models and newer.

(b) The required use of safety belts as provided herein does not apply to a duly appointed or contracted rural mail carrier of the United States Postal Service who is actually making mail deliveries or to a passenger or operator with a physically disabling condition whose physical disability would prevent appropriate restraint in such safety belt if the condition is duly certified by a physician who shall state the nature of the disability as well as the reason such restraint is inappropriate.

(c) A violation of this section is not admissible as evidence of negligence or contributory negligence or comparative negligence in any civil action or proceeding for damages, and shall not be admissible in mitigation of damages: provided, that the court may, upon motion of the defendant, conduct an in camera hearing to determine whether an injured party's failure to wear a safety belt was a proximate cause of the injuries complained of. Upon such a finding by the court, the court may then, in a jury trial, by special interrogatory to the jury, determine (1) that the injured party failed to wear a safety belt, and (2) that the failure to wear the safety belt constituted a failure to mitigate damages. The trier of fact may reduce the injured party's recovery for medical damages by an amount not to exceed five percent (5%) thereof. In the event the plaintiff stipulates to the reduction of five percent (5%) of medical damages, the court shall make the calculations and the issue of mitigation of damages for failure to wear a safety belt shall not be presented to the jury. In all cases, the actual computation of the dollar amount reduction shall be determined by the court.

(d) Notwithstanding any other provision of this Code to the contrary, no points may be entered on any driver's record maintained by the Division of Motor Vehicles as a result of a violation of this section.

(e) Nothing contained in this section shall be construed to abrogate or alter the provisions of Section 345.31 relating to the mandatory use of child passenger safety devices. (WVaC 17C-15-49)

(f) Any person who violates the provisions of this section shall be fined not more than twenty-five dollars (\$25.00). No court costs or other fees shall be assessed for a violation of this section. Enforcement of this section shall be accomplished only as a secondary action when a driver of a passenger vehicle has been detained for probable cause of violating another section of this code.

345.99 PENALTY.

(EDITOR'S NOTE: See Section 303.99 for general Traffic Code penalty.)

**ARTICLE 347
Commercial and Heavy Vehicles**

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| <p>347.01 Oversize or overweight vehicles.</p> <p>347.02 Projecting loads on passenger vehicles.</p> <p>347.03 Maximum width, height and length.</p> | <p>347.04 Loads dropping or leaking.</p> <p>347.05 Towing requirements.</p> <p>347.99 Penalty.</p> |
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CROSS REFERENCES

See sectional histories for similar State law
 Authority to designate weight limits on local streets -
 see W. Va. Code 17C-2-8(a)(7)
 Authority to permit oversized buses - see W. Va.
 Code 17C-17-2(b)
 Red light or flag on extended load - see TRAF. 345.07
 Transporting explosives - see TRAF. 345.27

347.01 OVERSIZE OR OVERWEIGHT VEHICLES.

(a) Use of State Route. No person shall operate or move a vehicle or combination of vehicles of a size or weight of vehicle or load exceeding the maximum specified in West Virginia Code Article 17C-17 upon any State route within the Municipality, except pursuant to special written permit issued by the Commissioner of Highways, or upon any local truck route. Every such permit shall be carried in the vehicle or combination of vehicles to which it refers and shall be open to inspection by any police officer.

No holder of a permit issued by the Commissioner of Highways shall be required to obtain any local permit or license or pay any local fee or charge for movement on any State route within the Municipality; however, it shall be unlawful to operate any such vehicle or combination of vehicles upon any roadway within the Municipality which is not a State route, except as provided in subsection (c) hereof.

(b) Use of Local Streets. No person shall operate a vehicle exceeding a size as specified in Section 347.03 or exceeding a gross weight of ten tons, upon any street in the Municipality other than a State route, except those local streets designated as a truck route and marked as such by appropriate traffic signs, and except when such operation is necessary to load or unload property, to go to or from the usual place of storage of such vehicle or to perform any other legitimate business or act other than passage through the Municipality. Operators of vehicles so deviating from either a State route or a designated truck route within the Municipality shall confine such deviation to that required in order to accomplish the purpose of the departure.

(c) Local Permit and Conditions. Upon application and for good cause, the Police Chief may issue a local permit authorizing an applicant to move an oversize or overweight vehicle or combination of vehicles upon local streets.

No permittee shall be required to obtain a special permit from the Commissioner of Highways for the movement of the vehicle or combination of vehicles on streets or highways under local jurisdiction; however, the approval of the Commissioner of Highways shall be required for movement upon State routes as provided in subsection (a) hereof.

The Police Chief may grant a permit for a single or round trip, or for such period of time, not to exceed one year, as the Police Chief in his discretion deems advisable, or for the duration of any construction project. The Police Chief may limit or prescribe terms or conditions of operation for such vehicle or combination of vehicles by designating the route, hours, speed or such other restrictions as may be necessary for the preservation of the public peace, property, health and safety. The Police Chief may require the posting of bond or other security necessary to compensate for any damage to a roadway or road structure.

For each such permit, the Police Chief shall charge five dollars (\$5.00), and for each hour of time or any part thereof spent by each police officer in supervising the movement of such vehicle, the applicant shall pay the sum of ten dollars (\$10.00).

Signs shall be posted indicating "no thru trucks - gross weight 10 tons" or words of similar import to apprise drivers of the limitations imposed by this section. No driver shall disobey the instructions indicated on any such sign.

Violation of any of the limitations, terms or conditions of the permit granted by the Police Chief shall be cause for immediate revocation or suspension of such permit, and denial of request for any future permit. Such violation shall also subject the violator to the penalty prescribed by Section 303.99.

347.02 PROJECTING LOADS ON PASSENGER VEHICLES.

(a) No passenger-type vehicle shall be operated on any street or highway with any load carried thereon extending beyond the line of the fenders of the left side of such vehicle nor extending more than six inches beyond the line of the fenders on the right side thereof.

(b) A motor home, travel trailer or truck camper may exceed the maximum width prescribed in Section 347.03, if the excess width is attributable to an appurtenance that does not exceed more than six inches beyond the body of the vehicle.
(WVaC 17C-17-3)

347.03 MAXIMUM WIDTH, HEIGHT AND LENGTH.

(a) A vehicle, including any load thereon, may not exceed a height of thirteen feet six inches, but the owner or owners of such vehicles shall be responsible for damage to any bridge or highway structure and to municipalities for any damage to traffic control devices or other highway structures where such bridges, devices or structures have a vehicle clearance of less than thirteen feet six inches.

(b) A motor vehicle, including any load thereon, may not exceed a length of forty feet extreme overall dimension, inclusive of front and rear bumpers, except that a motor home and school bus may not exceed a length of forty-five feet, exclusive of front and rear bumpers.

(c) Except as hereinafter provided in this subsection or in subsection (d) of this section, a combination of vehicles coupled together may not consist of more than two units and no combination of vehicles including any load thereon shall have an overall length, inclusive of front and rear bumpers, in excess of fifty-five feet except as provided in West Virginia Code 17C-17-11b, and except as otherwise provided in respect to the use of a pole trailer as authorized in West Virginia Code 17C-17-5. The limitation that a combination of vehicles coupled together may not consist of more than two units may not apply to:

- (1) A combination of vehicles coupled together by a saddle-mount device used to transport motor vehicles in a drive-away service when no more than three saddle mounts are used, if equipment used in the combination meets the requirements of the safety regulations of the United States Department of Transportation and may not exceed an overall length of more than seventy-five feet; or
- (2) A combination of vehicles coupled together, one of which is a travel trailer or folding camping trailer having an overall length, exclusive of front and rear bumpers, not exceeding sixty-five feet.

(d) A combination of two vehicles coupled together, one of which is a motor home, or a combination of vehicles coupled together, one of which is a travel trailer or folding camping trailer, may not exceed an overall length, exclusive of front and rear bumpers of sixty-five feet.

(e) Notwithstanding the provisions of subsections (a), (b), (c) and (d) of this section, the Commissioner of Highways may designate, upon his or her own motion or upon the petition of an interested party, a combination vehicle length not to exceed seventy feet.

(f) The length limitations for truck tractor-semitrailer combinations and truck tractor-semitrailer-trailer combinations operating on the national system of interstate and defense highways and those classes of qualifying federal-aid primary system highways so designated by the United States Secretary of Transportation and those highways providing reasonable access to and from terminals, facilities for food, fuel, repairs and rest and points of loading and unloading for household goods carriers from such highways and further, as to other highways so designated by the West Virginia Commissioner of Highways, shall be as follows: the maximum length of a semitrailer unit operating in a truck tractor-semitrailer combination shall not exceed forty-eight feet in length except where semitrailers have an axle spacing of not more than thirty-seven feet between the rear axle of the truck tractor and the front axle of the semitrailer, such semitrailer shall be allowed to be not more than fifty-three feet in length and the maximum length of any semitrailer or trailer operating in a truck tractor-semitrailer-trailer combination may not exceed twenty-eight feet in length and in no event shall any combinations exceed three units, including the truck tractor: provided, that nothing herein contained shall impose an overall length limitation as to commercial motor vehicles operating in truck tractor-semitrailer or truck tractor-semitrailer-trailer combinations. (WVaC 17C-17-4)

(g) The total outside width, exclusive of safety equipment authorized by the United States Department of Transportation, of any vehicle or the load thereon may not exceed ninety-six inches, except as otherwise provided in West Virginia Code Article 17C-17: provided, that any vehicle with a total outside width of 102 inches, exclusive of safety equipment authorized by the United States Department of Transportation, may be operated on any street or highway designated by the United States Department of Transportation or the Commissioner of the Department of Highways or on any street or highway having a minimum lane width of ten feet.

(h) Motor homes, travel trailers, truck campers, and motor buses with a total outside width of 102 inches, excluding safety equipment authorized by the United States Department of Transportation may operate on any street or highway.

(WVaC 17C-17-2)

347.04 LOADS DROPPING OR LEAKING.

(a) No vehicle or combination of vehicles shall be operated on any street or highway unless such vehicle or combination of vehicles is so constructed or loaded as to prevent any of its load from dropping, sifting, leaking, or otherwise escaping therefrom, except that sand may be dropped for the purpose of securing traction, or water or other substance may be sprinkled on a roadway in cleaning or maintaining such roadway.

(b) No person shall operate on any street or highway any vehicle or combination of vehicles with any load unless such load and any covering thereon is securely fastened so as to prevent such covering or load from becoming loose, detached or in any manner a hazard to other users of the street or highway.

(WVaC 17C-17-6)

347.05 TOWING REQUIREMENTS.

(a) When one vehicle is towing another the drawbar or other connection shall be of sufficient strength to pull all weight towed thereby and such drawbar or other connection shall not exceed fifteen feet from one vehicle to the other except the connection between any two vehicles transporting poles, pipe, machinery or other objects of structural nature which cannot readily be dismembered.

(b) When one vehicle is towing another and the connection consists of a chain, rope or cable, there shall be displayed upon such connection a white flag or cloth not less than twelve inches square.

(WVaC 17C-17-7)

347.99 PENALTY.

(EDITOR'S NOTE: See Section 303.99 for general Traffic Code penalty.)

(a) Whoever violates Section 347.01 shall be fined in proportion to the amount of weight in pounds in excess of that permitted or allowed:

1 to 4,000	\$20.00
4,001 to 5,000	25.00
5,001 to 6,000	60.00
6,001 to 7,000	70.00
7,001 to 8,000	80.00
8,001 to 9,000	90.00
9,001 to 10,000	100.00
10,001 to 11,000	165.00
11,001 to 12,000	180.00
12,001 to 13,000	195.00
13,001 to 14,000	210.00
14,001 to 15,000	225.00

15,001 to 16,000	320.00
16,001 to 17,000	340.00
17,001 to 18,000	360.00
18,001 to 19,000	380.00
19,001 to 20,000	400.00
20,001 to 22,000	500.00
22,001 to 24,000	550.00
24,001 to 26,000	600.00
26,001 to 28,000	650.00
28,001 to 30,000	700.00
30,001 to 32,000	750.00
32,001 to 34,000	800.00
34,001 to 36,000	850.00
36,001 to 38,000	900.00
38,001 to 40,000	950.00
40,001 and over	1,000.00

In the event any owner, lessee or borrower of a vehicle is charged with violating Section 347.01, the vehicle which is charged to be overloaded shall be impounded by the arresting officer and shall not be released to such owner, lessee or borrower unless and until such owner, lessee or borrower either shall have been found guilty and paid any fine assessed against such owner, lessee or borrower, or shall have furnished cash or surety bond in at least double the amount of the fine which may be assessed against such owner, lessee or borrower for such violation of Section 347.01 and conditioned upon the payment of any such fine and costs assessed for such violation, or shall have been acquitted of such charge. Such owner, lessee or borrower shall be liable for any reasonable storage costs incurred in storing such vehicles provided, that if the owner of such vehicle is a resident of or has a principal place of business located in this State, and the vehicle has been fully licensed in the State, the vehicle shall not be impounded, but the arresting officer shall deliver to the driver a written notice stating such violation; the place, date and time; the license number of the vehicle; the title number and name and address of the owner; the driver's name, address, and the number of his operator's or chauffeur's card or permit; and the court, place, date and time for hearing, which shall be within five days of such violation (Saturdays, Sundays and holidays, excluded). A copy of such notice shall within forty-eight hours be mailed to the owner of the vehicle. Upon the failure by such owner or his or its agent to appear at the designated place and time, or upon failure to pay the fine and costs assessed, for such violation, unless such owner shall have been acquitted of such charge, the court shall order a bond or the impounding of said vehicle as provided in this section.

(Ord. 6-26-89.)

ARTICLE 349
Miscellaneous Rules

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| <p>349.01 Unattended motor vehicle.</p> <p>349.02 Backing a vehicle.</p> <p>349.03 Drivers' view and control to be unobstructed by load or persons.</p> <p>349.04 Passengers in seat with operator.</p> <p>349.05 Passengers on running board.</p> <p>349.06 Following authorized emergency vehicles.</p> <p>349.061 Approaching authorized emergency vehicles.</p> <p>349.07 Driving over fire hose.</p> <p>349.08 Funeral processions.</p> <p>349.09 Opening door of vehicle on traffic side.</p> <p>349.10 Boarding or alighting from vehicle.</p> <p>349.11 Unlawful riding.</p> | <p>349.12 Squealing tires, cracking exhaust noises.</p> <p>349.13 Taking, injuring or tampering with vehicle.</p> <p>349.14 Driving upon sidewalk, street lawn or curb.</p> <p>349.15 Shortcutting; avoiding traffic control devices.</p> <p>349.16 Coasting prohibited.</p> <p>349.17 Driving through safety zone.</p> <p>349.18 Driving upon street posted as closed for repair.</p> <p>349.19 Obstruction of traffic.</p> <p>349.20 Vehicle security.</p> <p>349.21 Littering from a motor vehicle.</p> <p>349.99 Penalty.</p> |
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CROSS REFERENCES

See sectional histories for similar State law
Obedience to traffic control devices - see TRAF. 313.01

349.01 UNATTENDED MOTOR VEHICLE.

No person driving or in charge of a motor vehicle shall permit it to stand unattended without first stopping the engine, locking the ignition, removing the key, and effectively setting the brake thereon and, when standing upon any grade, turning the front wheels to the curb or side of the street or highway.

(WVaC 17C-14-1)

349.02 BACKING A VEHICLE.

The driver of a vehicle shall not back the same unless such movement can be made with reasonable safety and without interfering with other traffic.

(WVaC 17C-14-2)

349.03 DRIVERS' VIEW AND CONTROL TO BE UNOBSTRUCTED BY LOAD OR PERSONS.

(a) No person shall drive a vehicle when it is so loaded as to obstruct the view of the driver to the front or sides of the vehicle or as to interfere with the driver's control over the driving mechanism of the vehicle.

(b) No passenger in a vehicle shall ride in such position as to interfere with the driver's view ahead or to the sides, or to interfere with his or her control over the driving mechanism of the vehicle. (WVaC 17C-14-4)

349.04 PASSENGERS IN SEAT WITH OPERATOR.

No more than three persons including the operator shall ride or be permitted by such operator to ride in the seat with the operator of any motor vehicle while such motor vehicle is being operated on the streets or highways of this Municipality: provided, however, that the limitation of this section shall not apply to a truck cab or truck crew compartment properly designed for the occupancy of four persons including the operator, and so designated on the registration card by the Division of Motor Vehicles.
(WVaC 17C-14-5)

349.05 PASSENGERS ON RUNNING BOARD.

No passenger shall ride nor shall the operator permit any passenger to ride on the running boards of any motor vehicle while such vehicle is being operated on the streets or highways of this Municipality. (WVaC 17C-14-6)

349.06 FOLLOWING AUTHORIZED EMERGENCY VEHICLES.

The driver of any vehicle other than one on official business may not follow any authorized emergency vehicle traveling in response to a fire alarm or other emergency closer than 500 feet or drive into or park such vehicle within the block where such authorized emergency vehicle has stopped in answer to a fire alarm or other emergency.
(WVaC 17C-14-9)

349.061 APPROACHING AUTHORIZED EMERGENCY VEHICLES.

The driver of any vehicle approaching a stationary authorized emergency vehicle, when the authorized emergency vehicle is giving a signal by displaying alternately flashing red, red and white, blue, or red and blue lights or amber or yellow warning lights, shall:

- (a) Proceed with due caution, yield the right-of-way by making a lane change not adjacent to that of the authorized emergency vehicle, if possible with regard to safety and traffic conditions, if on a highway having at least four lanes with not less than two lanes proceeding in the same direction as the approaching vehicle and reduce speed to a safe level for road conditions; or
- (b) Proceed with due caution, reduce the speed of the vehicle, maintaining a safe speed not to exceed fifteen miles per hour on any nondivided highway or street and twenty-five miles per hour on any divided highway depending on road conditions, if changing lanes would be impossible or unsafe.
(WVaC 17C-14-9a)

349.07 DRIVING OVER FIRE HOSE.

No vehicle shall be driven over any unprotected hose of the Fire Department when laid down on any street or private driveway to be used at any fire or alarm of fire, without the consent of the Fire Department official in command. (WVaC 17C-14-10)

349.08 FUNERAL PROCESSIONS.**(a) Definitions.**

- (1) "Funeral director" and "funeral establishment" have the same meaning as set forth in West Virginia Code 30-6-4.
- (2) "Funeral procession" means two or more vehicles accompanying the body of a deceased person, or traveling to the church, chapel, cemetery, or other location at which the funeral service or final disposition is to be held, including a funeral lead vehicle or a funeral escort vehicle.
- (3) "Funeral lead vehicle" means any authorized law enforcement or nonlaw-enforcement motor vehicle or a funeral escort vehicle being used to lead and facilitate the movement of a funeral procession. A funeral hearse may serve as a funeral lead vehicle.
- (4) "Funeral escort" means a person or entity that provides escort services for funeral processions, including law-enforcement personnel and agencies.
- (5) "Funeral escort vehicle" means any motor vehicle that escorts a funeral procession.

(b) Funeral Procession Right-Of-Way.

- (1) Regardless of any traffic control device or right-of-way provisions prescribed by state or local ordinance, pedestrians and operators of all vehicles, except as stated in subsection (b)(3) of this section, shall yield the right-of-way to any vehicle which is part of a funeral procession being led by a funeral escort vehicle or a funeral lead vehicle.
- (2) When the funeral lead vehicle lawfully enters an intersection, either by reason of a traffic control device or at the direction of law-enforcement personnel, the remaining vehicles in the funeral procession may follow through the intersection regardless of any traffic control devices or right-of-way provisions prescribed by state or local law.
- (3) Funeral processions have the right-of-way at intersections regardless of traffic control devices subject to the following conditions and exceptions:
 - A. Operators of vehicles in a funeral procession shall yield the right-of-way to an approaching emergency vehicle giving an audible or visible signal;
 - B. Operators of vehicles in a funeral procession shall yield the right-of-way when directed to do so by a police officer; and
 - C. Operators of vehicles in a funeral procession must exercise due care when participating in a funeral procession.

(c) Driving in Procession.

- (1) All vehicles comprising a funeral procession shall follow the preceding vehicle in the funeral procession as closely as is practical and safe.
- (2) Any ordinance, law or rule stating that motor vehicles shall be operated to allow sufficient space enabling any other vehicle to enter and occupy such space without danger is not applicable to vehicles in a funeral procession.

(d) **Liability.** Liability for any death, personal injury or property damage suffered on or after the first day of July, one thousand nine hundred ninety-nine, by any person in a funeral procession may not be imposed upon a funeral director or funeral establishment or their employees or agents unless the death, personal injury or property damage is proximately caused by the negligent or intentional act of a funeral director or funeral establishment or their employees or agents.

(e) **Equipment.** All nonlaw-enforcement funeral escort vehicles and funeral lead vehicles may be equipped with at least one lighted circulation flashing lamp exhibiting an amber or purple light or lens. Flashing amber or purple lights may be used when such vehicles are used in a funeral procession. (WVaC Art. 17C-23)

349.09 OPENING DOOR OF VEHICLE ON TRAFFIC SIDE.

No person shall open the door of a motor vehicle on the side available to moving traffic unless and until it is reasonably safe to do so, nor shall any person leave a door open on the side of a motor vehicle available to moving traffic for a period of time longer than is necessary to load or unload passengers.

349.10 BOARDING OR ALIGHTING FROM VEHICLE.

No person shall board or alight from any vehicle while such vehicle is in motion.

349.11 UNLAWFUL RIDING.

No person shall ride on any vehicle upon any portion thereof not designated or intended for the use of passengers when the vehicle is in motion. This provision shall not apply to an employee engaged in the necessary discharge of a duty or to persons riding within truck bodies in space intended for merchandise.

349.12 SQUEALING TIRES, CRACKING EXHAUST NOISES.

No person shall unnecessarily race the motor of any vehicle and no person shall operate any motor vehicle, except in an emergency, in such a manner that the vehicle is so rapidly accelerated or started from a stopped position that the exhaust system emits a loud, cracking or chattering noise unusual to its normal operation, or whereby the tires of such vehicle squeal or leave tire marks on the roadway, commonly called "peeling".

349.13 TAKING, INJURING OR TAMPERING WITH VEHICLE.

(a) No person shall drive a vehicle, not his or her own, without consent of the owner thereof, and with intent temporarily to deprive such owner of his or her possession of such vehicle, but without intent to steal the vehicle. The consent of the owner of a vehicle to its taking or driving shall not in any case be presumed or implied because of such owner's consent on a previous occasion to the taking or driving of such vehicle by the same or a different person. Any person who assists in, or is a party or accessory to or an accomplice in any such unauthorized taking or driving, shall also be guilty of a violation of this section.
(WVaC 17A-8-4)

(b) No person either individually or in association with one or more persons shall willfully injure or tamper with any vehicle or break or remove any part or parts of or from a vehicle without the consent of the owner.

No person with intent to commit any malicious mischief, injury or other crime shall climb into or upon a vehicle whether it is in motion or at rest or with like intent attempt to manipulate any of the levers, starting mechanism, brakes or other mechanism or device of a vehicle while the same is at rest and unattended or with like intent set in motion any vehicle while the same is at rest and unattended.

(WVaC 17A-8-6)

349.14 DRIVING UPON SIDEWALK, STREET LAWN OR CURB.

(a) No person shall drive any vehicle, other than a bicycle, upon a sidewalk or sidewalk area except upon a permanent or duly authorized temporary driveway.

(b) No person shall drive a vehicle on a street lawn area or the curb of a street, except upon a permanent or duly authorized temporary driveway or when otherwise lawfully authorized.

349.15 SHORTCUTTING; AVOIDING TRAFFIC CONTROL DEVICES.

(a) No person shall operate a motor vehicle across public or private property marked with signs "No Through Traffic" or words of similar import for the purpose of passing from one roadway to another.

(b) No person shall operate a motor vehicle across public or private property for the purpose of avoiding compliance with a traffic control device.

(c) It shall be prima-facie evidence of a violation of this section for the operator of a motor vehicle to cross public or private property as provided herein without using the service of such property, stopping the engine or both.

349.16 COASTING PROHIBITED.

The operator of any motor vehicle when traveling on a down grade on any street, alley or highway shall not coast with the gears of such vehicle in neutral.

349.17 DRIVING THROUGH SAFETY ZONE.

No operator of a vehicle shall drive the same over or through a safety zone.

349.18 DRIVING UPON STREET POSTED AS CLOSED FOR REPAIR.

No person shall drive upon, along or across a street or highway, or any part thereof, which has been closed in the process of its construction, reconstruction or repair, and posted with appropriate signs by the authority having jurisdiction to close such street or highway.

349.19 OBSTRUCTION OF TRAFFIC.

No person shall operate, stop, stand or park any motor vehicle on any street or alley within the Municipality so as to obstruct or hinder the free flow of motor vehicle traffic except in compliance with a lawful order of a police officer or in compliance with a traffic control sign, signal or marking.

349.20 VEHICLE SECURITY.

(a) Every owner or registrant of a motor vehicle shall maintain security upon such vehicle as required by West Virginia Code Article 17D-2A, and no person shall knowingly drive or operate on any street within the Municipality any motor vehicle upon which security is required by such Article unless the security is provided, and violation of any of the provisions of West Virginia Code Article 17D-2A including failure to have a certificate of insurance, if required, shall constitute a violation under this section.

(b) A defendant, who is charged with a traffic offense that requires an appearance in court, shall present the court at the time of his or her appearance or subsequent appearance with proof that the defendant had security in effect at the time of the traffic offense as required by this section. The court shall not base its decision solely on the presentation of a certificate of insurance as defined in West Virginia Code 17D-2A-4. The court shall require current documentation from the defendant's insurance company or agent that the defendant in fact was insured at the time of the offense. If, as a result of the defendant's failure to show proof, the court determines that the defendant has violated this section, it shall notify the Division of Motor Vehicles within five days.

(c) In addition to any other penalty provided for violation of any provision of this article, any person who violates any provision of this section shall be fined not less than two hundred dollars (\$200.00) nor more than five hundred dollars (\$500.00)

The arrest procedures authorized in West Virginia Code 17C-19-4 shall apply to the enforcement of the provisions of this section.

(Ord. 6-22-98.)

349.21 LITTERING FROM A MOTOR VEHICLE.

(a) It is unlawful for any driver or passenger of a motor vehicle or other conveyance to place, deposit, dump, throw or cause to be placed, deposited, dumped or thrown, any litter from a motor vehicle or other conveyance in or upon any public or private highway, road, street or alley; any private property; any public property; or the waters of the State or within one hundred feet of the waters of this State, except in a proper litter or other solid waste receptacle.

(b) For purposes of this section, "litter" means all waste material including, but not limited to, any garbage, refuse, trash, disposable package, container, can, bottle, paper, ashes, cigarette or cigar butt, carcass of any dead animal or any part thereof, or any other offensive or unsightly matter, but not including the wastes of primary processes of mining, logging, sawmilling, farming or manufacturing.

(c) When there is more than one occupant in a motor vehicle or other conveyance and it can not be determined which occupant is responsible for violating this section, the driver shall be presumed to be responsible for the violation.

(WVaC 17C-14-14)

349.99 PENALTY.

(EDITOR'S NOTE: See Section 303.99 for general Traffic Code penalty.)

**AN ORDINANCE OF THE CITY OF GLEN DALE, WEST VIRGINIA, PROHIBITING
USE OF ELECTRONIC COMMUNICATIONS DEVICE DRIVING WITHOUT
HANDHELD FEATURES; DEFINITIONS, EXCEPTIONS, PENALTIES.**

SECTION ONE: The Council of the City of Glen Dale, hereby ordains

**349.22 PROHIBITING USE OF ELECTRONIC COMMUNICATIONS DEVICE
DRIVING WITHOUT HANDHELD FEATURES; DEFINITIONS, EXCEPTIONS,
PENALTIES**

(a) Except as provided in subsection (c) of this section, a person may not drive or operate a motor vehicle on a public street or highway while:

(1) Texting; or

(2) Using a cell phone or other electronic communications device, unless the use is accomplished by hands-free equipment.

(b) For purposes of this section, the following terms shall mean:

(1) "Cell phone" shall mean a cellular, analog, wireless or digital telephone.

(2) "Driving" or "operating a motor vehicle" means operating a motor vehicle, with the motor running, including while temporarily stationary because of traffic, a traffic control device, or other momentary delays, but does not include operating a motor vehicle after the driver has moved the vehicle to the side of, or off, a highway and halted in a location where the vehicle can safely remain stationary.

(3) "Electronic communication device" means a cell telephone, personal digital assistant, electronic device with mobile data access, laptop computer, pager, broadband personal communication device, 2-way messaging device, electronic game, or portable computing device. For the purposes of this section, an "electronic communication device" does not include:

(A) Voice radios, mobile radios, land mobile radios, commercial mobile radios or two way radios with the capability to transmit and receive voice transmissions utilizing a push-to-talk or press-to-transmit function; or

(B) Other voice radios used by a law-enforcement officer, an emergency services provider, an employee or agent of public safety organizations, first responders, Amateur

Radio Operators (HAM) licensed by the Federal Communications Commission and school bus operators.

(4) "Engaging in a call" means when a person talks into or listens on an electronic communication device, but shall not include when a person dials or enters a phone number on a pushpad or screen to initiate the call.

(5) "Hands-free electronic communication device" means an electronic communication device that has an internal feature or function, or that is equipped with an attachment or addition, whether or not permanently part of such electronic communication device, by which a user engages in a call without the use of either hand or both hands.

(6) "Hands-free equipment" means the internal feature or function of a hands-free electronic communication device or the attachment or addition to a hands-free electronic communication device by which a user may engage in a call or text without the use of either hand or both hands.

(7) "Texting" means manually entering alphanumeric text into, or reading text from, an electronic communication device, and includes, but is not limited to, short message service, e-mailing, instant messaging, a command or request to access a World Wide Web page or engaging in any other form of electronic text retrieval or entry, for present or future communication. For purposes of this section, "texting" does not include the following actions:

(A) Reading, selecting or entering a telephone number, an extension number, or voicemail retrieval codes and commands into an electronic device by the pressing the device in order to initiate or receive a phone call or using voice commands to initiate or receive a telephone call;

(B) Inputting, selecting or reading information on a global positioning system or navigation system; or

(C) Using a device capable of performing multiple functions, including fleet management systems, dispatching devices, smart phones, citizens band radios or music players, for a purpose that is not otherwise prohibited in this section.

(8) "Using a cell phone or other electronic communication device" means holding in a person's hand or hands an electronic communication device while:

(A) Viewing or transmitting images or data;

(B) Playing games;

(C) Composing, sending, reading, viewing, accessing, browsing, transmitting, saving or retrieving e-mail, text messages or other electronic data; or

(D) Engaging in a call.

(c) Subsection (a) of this section shall not apply to:

(1) A law-enforcement officer, a firefighter, an emergency medical technician, a paramedic or the operator of an authorized emergency vehicle in the performance of their official duties;

(2) A person using an electronic communication device to report to appropriate authorities a fire, a traffic accident, a serious road hazard, or a medical or hazardous materials emergencies.

(3) The activation or deactivation of hands-free equipment or a function of hands-free equipment.

(d) This section does not supersede the provisions of any more restrictive provisions for drivers of commercial motor vehicles prescribed by the provisions of section 353.08 state law or federal law or rule.

(e) Any person who violates the provisions of subsection (a) of this section is guilty of a traffic offense and, upon conviction thereof, shall for a first offense be fined \$100; for a second offense be fined \$200; and for a third or subsequent offense be fined \$300. No court costs or other fees shall be assessed for a violation of subsection (a) of this section.

(f) Notwithstanding any other provision of this code to the contrary, points may not be entered on any driver's record maintained by the Division of Motor Vehicles as a result of a violation of this section, except for the third and subsequent convictions of the offense, for which three points shall be entered on any driver's record maintained by the Division of Motor Vehicles.

(g) Nothing contained in this section shall be construed to authorize seizure of a cell phone or electronic device by any law-enforcement agency.

SECTION TWO: This Ordinance shall be effective from and after its date of passage.

Passed First Reading: _____

Passed Second Reading: _____

Dave Blazer, Mayor

ATTEST:

Jane Criswell-Rickman, City Clerk

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Dale City Council Minutes

August 26, 2013

Glen Dale City Council met in regular session on Monday, August 26, 2013, at 7:30pm. in Council Chambers of the Glen Dale City Building. Those in Attendance were Mayor Blazer,

Recorder Trembush, Council Members: Bero, English, Grisell, and Zinn. Also present were Chief of Police Stenger, Water Superintendent Orlofske, City Clerk Rickman and Attorney Barney. Councilman

Richmond and Byers were absent.

The minutes of the previous meeting were approved on a motion by Zinn and second by English. Vote: Unanimous

A motion was made by English and seconded by Grisell to approve payment of bills in the amount of \$17,478.00. Vote: Unanimous

Zinn made a motion to accept standing committee reports and English seconded. Vote: Unanimous

Attorney Barney read on first reading five ordinances by title needing to be passed for the City to be in compliance with a state code. They were read individually and voted on individually

by ROLL CALL VOTE. All were passed unanimously as follows:

#1. AN ORDINANCE OF THE CITY OF GLEN DALE, WEST VIRGINIA, AMENDING ORDINANCE 353.01 ENTITLED DEFINITIONS TO INCLUDE DEFINITIONS

FOR TEXTING. Motion to approve by Bero and seconded by Zinn. ROLL CALL VOTE: BERO-YES; ENGLISH-YES; GRISELL- YES; ZINN-YES

#2. AN ORDINANCE OF THE CITY OF GLEN DALE, WEST VIRGINIA, AMENDING ORDINANCE 353.03 ENTITLED EMPLOYER RESPONSIBILITIES.

Motion to approve by Zinn and seconded by English. ROLL CALL VOTE: BERO-YES; ENGLISH-YES; GRISELL-YES; ZINN-YES.

#3. AN ORDINANCE OF THE CITY OF GLEN DALE, WEST VIRGINIA, DEFINING ACTIONS AND CONDITIONS DISQUALIFYING AN INDIVIDUAL FROM

OPERATING A COMMERCIAL VEHICLE AND PENALTIES. Motion to approve by Grisell and second by English. ROLL CALL VOTE:; BERO-YES; ENGLISH-YE; GRISELL-YES;

ZINN-YES

#4. AN ORDINANCE OF THE CITY OF GLEN DALE, WEST VIRGINIA, PROHIBITING COMMERCIAL DRIVERS FROM TESTING WHILE DRIVING.

Motion to approve by Bero and seconded by Zinn. ROLL CALL: BERO-YES; ENGLISH-YES; GRISELL-YES; ZINN-YES

#5. AN ORDINANCE OF THE CITY OF GLEN DALE, WEST VIRGINIA, PROHIBITING THE USE OF ELECTRONIC COMMUNICATIONS DEVICE

DRIVING WITHOUT HAND HELD FEATURES; DEFINITIONS, EXCEPT, PENALTIES. Motion to approve by Bero and seconded by Zinn. ROLL CAL VOTE: BERO-YES;

ENGLISH-YES; GRISELL-YES; ZINN-YES

English moved and Grisell seconded a request for an executive session at 7:48pm to discuss personnel matters. English moved and Grisell seconded a request to return to regular session

at 8:23pm. Both were unanimous.

English made a motion, second by Bero, to adjourn at 8:24pm. Vote: Unanimous

David Blazer, Mayor

Gerald A. Trembush, Recorder

(c) In addition to any other penalty provided for violation of any provision of this article, any person who violates any provision of this section shall be fined not less than two hundred dollars (\$200.00) nor more than five hundred dollars (\$500.00)

The arrest procedures authorized in West Virginia Code 17C-19-4 shall apply to the enforcement of the provisions of this section.
(Ord. 6-22-98.)

349.21 LITTERING FROM A MOTOR VEHICLE.

(a) It is unlawful for any driver or passenger of a motor vehicle or other conveyance to place, deposit, dump, throw or cause to be placed, deposited, dumped or thrown, any litter from a motor vehicle or other conveyance in or upon any public or private highway, road, street or alley; any private property; any public property; or the waters of the State or within one hundred feet of the waters of this State, except in a proper litter or other solid waste receptacle.

(b) For purposes of this section, "litter" means all waste material including, but not limited to, any garbage, refuse, trash, disposable package, container, can, bottle, paper, ashes, cigarette or cigar butt, carcass of any dead animal or any part thereof, or any other offensive or unsightly matter, but not including the wastes of primary processes of mining, logging, sawmilling, farming or manufacturing.

(c) When there is more than one occupant in a motor vehicle or other conveyance and it can not be determined which occupant is responsible for violating this section, the driver shall be presumed to be responsible for the violation.
(WVaC 17C-14-14)

349.99 PENALTY.

(EDITOR'S NOTE: See Section 303.99 for general Traffic Code penalty.)

ARTICLE 351
Licensing Generally

- | | | | |
|--------|--|--------|--|
| 351.01 | Registration, certificate of title required. | 351.07 | Persons exempt from license. |
| 351.02 | Registration card. | 351.08 | Display of license. |
| 351.03 | Display of registration plates. | 351.09 | Certain acts prohibited. |
| 351.04 | Operation of vehicle without evidence of registration; use of temporary facsimile. | 351.10 | Driving under suspension or revocation. |
| 351.05 | Improper use of registration card, plate or permit. | 351.11 | Owner or operator allowing another to drive. |
| 351.06 | Driver or motorcycle license required. | 351.99 | Penalty. |

CROSS REFERENCES

- Impounding unlicensed vehicle - see TRAF. 303.07
Illumination of license plate - see TRAF. 345.05(c)

351.01 REGISTRATION, CERTIFICATE OF TITLE REQUIRED.

No person shall drive or move and no owner shall knowingly permit to be driven or moved upon any street or highway any vehicle of a type required to be registered under West Virginia Code Chapter 17-A which is not registered or for which a certificate of title has not been issued or applied for or for which the appropriate fee has not been paid when and as required, except as otherwise permitted by the provisions therein: provided, that in the event of the sale of a vehicle by a person other than a registered dealer, the person purchasing the same may, for a period of not more than ten days, operate such vehicle under the registration of its previous owner and display the registration thereof: provided further that he shall have and display on the demand of any proper officer the consent in writing of such previous owner so to use such registration.
(WVaC 17A-3-1)

351.02 REGISTRATION CARD.

Every owner upon receipt of a registration card shall write his signature thereon with pen and ink in the space provided. Every such registration card shall at all times be carried in the vehicle to which it refers or shall be carried by the person driving or in control of such vehicle who shall display the same upon demand of a police officer or any officer or employee of the Department of Motor Vehicles.
(WVaC 17A-3-13)

351.03 DISPLAY OF REGISTRATION PLATES.

(a) Registration plates issued for vehicles required to be registered shall be attached to the rear thereof except that on truck tractors and road tractors designed and constructed to pull trailers or semi-trailers, the registration plate shall be mounted to the front.

(b) Every registration plate shall at all times be securely fastened in a horizontal position to the vehicle for which it is issued so as to prevent the plate from swinging and at a height of not less than twelve inches from the ground, measuring from the bottom of such plate, in a place and position to be clearly visible and shall be maintained free from foreign materials and in a condition to be clearly legible.

(c) Notwithstanding the provisions of subsection (b) of this section, an owner of a motor vehicle with a Class G registration as defined in West Virginia Code 17A-10-1 may choose to:

- (1) Display a standard, Class G registration plate in a horizontal position; or
- (2) Display a specially designed Class G registration plate in a vertical position. (WVaC 17A-3-15)

351.04 OPERATION OF VEHICLE WITHOUT EVIDENCE OF REGISTRATION; USE OF TEMPORARY FACSIMILE.

No person shall operate or park, nor shall an owner knowingly permit to be operated or parked upon any street or highway any vehicle required to be registered unless there is attached thereto and displayed thereon or is in the possession of the operator when and as required by this Traffic Code, a valid registration card and registration plate or plates issued therefor by the Department of Motor Vehicles for the current registration year except as otherwise expressly permitted in West Virginia Code Chapter 17-A.

In the event that the registration plate or plates originally issued are lost, destroyed or stolen, a temporary facsimile of the plate or plates, showing the number of the same, may be attached to the vehicle by the owner for a period of not more than fifteen days, or until a new plate or plates are issued by the Department whichever is earlier: provided, that no such facsimile shall be used and no such vehicle shall be driven upon the streets or highways of this Municipality until the owner has notified in writing the State Police of the loss of such registration plate or plates. (WVaC 17A-9-2)

351.05 IMPROPER USE OF REGISTRATION CARD, PLATE OR PERMIT.

No person shall lend to another any certificate of title, registration card, registration plate, special plate or permit issued to him if the person desiring to borrow the same would not be entitled to the use thereof, nor shall any person knowingly permit the use of any of the same by one not entitled thereto, nor shall any person display upon a vehicle any registration card, registration plates or permit not issued for such vehicle or not otherwise lawfully used thereon under this Traffic Code. (WVaC 17A-9-3)

351.06 DRIVER OR MOTORCYCLE LICENSE REQUIRED.

(a) No person, except those hereinafter expressly exempted, shall drive any motor vehicle upon a street or highway in this Municipality or upon any subdivision street, used by the public generally unless the person has a valid driver's license issued under the provisions of the West Virginia Code for the type or class of vehicle being driven.

Any person licensed to operate a motor vehicle as provided in the West Virginia Code may exercise the privilege thereby granted as provided in the West Virginia Code and, except as otherwise provided by law, shall not be required to obtain any other license to exercise such privilege by any county, municipality or local board or body having authority to adopt local police regulations.

(b) No person, except those hereinafter expressly exempted, shall drive any motorcycle upon a street or highway in this Municipality or upon any subdivision street, used by the public generally unless the person has a valid motorcycle license, a valid license which has been endorsed under West Virginia Code 17B-2-7b for motorcycle operation or has a valid motorcycle instruction permit. (WVaC 17B-2-1)

351.07 PERSONS EXEMPT FROM LICENSE.

The following persons are exempt from the license required under Section 351.06:

- (a) Any person while operating a motor vehicle in the armed services of the United States while in the performance of his official duties;
- (b) A nonresident who is at least sixteen years of age and who has in his or her immediate possession a valid driver's license issued to the person in the person's home state or country unless the Commissioner determines the person's home state or country does not extend the same privileges to a resident of this State, may operate a motor vehicle in this State only as a noncommercial driver for a period not to exceed ninety days in any one calendar year;
- (c) A nonresident who is at least sixteen years of age, who has in the person's immediate possession a valid driver's license issued to the person in the person's home state or country and who is employed in this State, or owns, maintains or operates a place or places of business in this State, or engages in any trade, profession or occupation in this State, in addition to the driving privileges extended under subsection (b) hereof, unless the Commissioner determines the person's home state or country does not extend the same privileges to a resident of this State, may operate a motor vehicle in this State only as a noncommercial driver in traveling to and from the person's place or places of employment, place or places of business or place or places at which the person engages in the trade, profession or occupation and in the discharge of the duties of the person's employment, business, trade, profession or occupation if the duties are such that, if performed by a resident of the State of West Virginia over the age of eighteen years of age, the resident would not be required under the provisions of West Virginia Code Chapter 17 to obtain a Class A, B, C or D driver's license. However, this subsection shall not exempt any person who is required to obtain a West Virginia driver's license in accordance with the provisions of West Virginia Code 17B-2-1a;
- (d) A nonresident who is at least eighteen years of age and who has in his or her immediate possession a valid commercial driver's license issued to the person in his or her home state or country and which meets the requirements of the federal commercial motor vehicle act of 1986, Title XI of public law 99-570 and unless the Commissioner determines the person's home state or country does not extend the same privilege to a resident of this State may operate a motor vehicle in this State either as a commercial driver subject to the age limits applicable to commercial driver in this State, or as a noncommercial driver subject to the limitations imposed on nonresident drivers in subsections (b) and (c) hereof;
- (e) Any person who is a student, properly enrolled and registered in an accredited school, college or university in this State, who is at least sixteen years of age and who has in his or her immediate possession a valid driver's license issued to the person in the person's home state, notwithstanding the limitations of subsections (b) and (c) hereof may operate motor vehicle in this State only as noncommercial driver: provided, that the state of which the person is a resident shall extend the same privileges to residents of this State. This exemption shall be canceled immediately when the student is graduated from school, college or university or is expelled or ceases to be a student. (WVaC 17B-2-2)

351.08 DISPLAY OF LICENSE.

Every licensee shall have his or her driver's license in such person's immediate possession at all times when operating a motor vehicle and shall display the same, upon demand of a magistrate, municipal judge, circuit court judge, peace officer or an employee of the Division of Motor Vehicles. However, no person charged with violating this section shall be convicted if such person produces in court or the office of the arresting officer a driver's license theretofore issued to such person and valid at the time of such person's arrest.

(WVaC 17B-2-9)

351.09 CERTAIN ACTS PROHIBITED.

No person shall commit any one of the following acts:

- (a) Display or cause or permit to be displayed or have in his possession any fictitious or fraudulently altered driver's or commercial driver's license or nonoperator's identification;
- (b) Lend his driver's or commercial driver's license or nonoperator's identification to any other person or knowingly permit the use thereof by another;
- (c) Display or represent as one's own any driver's or commercial driver's license or nonoperator's identification not issued to him;
- (d) Use a false or fictitious name in any application for a driver's or commercial driver's license or nonoperator's identification or knowingly make a false statement or knowingly conceal a material fact or otherwise commit a fraud in any such application;
- (e) Permit any unlawful use of a driver's or commercial driver's license or nonoperator's identification issued to him; or
- (f) Do any act forbidden or fail to perform any act required by this Traffic Code or West Virginia Code Chapter 17.

(WVaC 17B-4-1)

351.10 DRIVING UNDER SUSPENSION OR REVOCATION.

No person shall drive a motor vehicle on any public street or highway of this Municipality at a time when his privilege so to do has been lawfully suspended or revoked.

(WVaC 17B-4-3)

351.11 OWNER OR OPERATOR ALLOWING ANOTHER TO DRIVE.

No person shall authorize or knowingly permit a motor vehicle owned by him or under his control to be driven upon any street or highway by any person who is not authorized hereunder or in violation of any of the provisions of this Traffic Code or the West Virginia Code.

(WVaC 17B-4-4)

351.99 PENALTY.

(a) General Article Penalty. Whoever violates any provision of this article for which no other penalty is provided shall be fined not more than five hundred dollars (\$500.00); for a second or subsequent violation of the same provision such person shall be fined not more than five hundred dollars (\$500.00) or imprisoned not more than thirty days, or both.

Code Sec

357.12

**AN ORDINANCE OF THE CITY OF GLEN DALE, WEST VIRGINIA,
IMPLEMENTING REQUIREMENT OF NEW RESIDENTS TO REGISTER
THEIR MOTOR VEHICLES WITH THE STATE OF WEST VIRGINIA**

WHEREAS, new residents of the City of Glen Dale arrive from various states;
and

WHEREAS, the Council of the City of Glen Dale desires to implement an ordinance enforcing the requirement that new residents register their motor vehicle with the State of West Virginia.

BE IT THEREFORE ORDAINED by the Council of the City of Glen Dale, West Virginia.

SECTION ONE: The Council of the City of Glen Dale, hereby ordains

Registration of vehicles of new residents.

(a) Every owner of a motor vehicle, trailer or other vehicle, shall, within thirty days after taking up residence in the state, apply to the division and obtain registration and title for the vehicle.

b) For the purposes of this chapter there is a rebuttable presumption that a natural person is a resident of the state if any of the following elements exist including, but not limited to:

1. The person is registered to vote in this state.
2. The person enrolls the person's child to be educated in a public elementary or secondary school in this state.
3. The person is receiving public assistance from this state.
4. The person resides or has continuously remained in this state for a period exceeding thirty days except for infrequent or brief absences.
5. The person has accepted employment or engages in any trade, profession, or occupation within this state, except that this does not include a person who is commuting from the person's residence in another state or whose employment is seasonal or temporary, not exceeding ninety days.
6. The person has filed for a homestead tax exemption on property in this state.



(b) Driving Under Suspension or Revocation.

- (1) Except as otherwise provided in West Virginia Code 17B-4-3(b) or (d), or subsection (b)(2) or (3) hereof, whoever drives a motor vehicle on any street or highway of this Municipality at a time when his or her privilege so to do has been lawfully suspended or revoked shall, for the first offense, be fined not less than one hundred dollars (\$100.00) nor more than five hundred dollars (\$500.00); for the second offense, such person, shall be fined not less than one hundred dollars (\$100.00) nor more than five hundred dollars (\$500.00); for the third or any subsequent offense, such person shall be imprisoned for a period of thirty days and, in addition to such mandatory jail sentence, shall be fined not less than one hundred fifty dollars (\$150.00) nor more than five hundred dollars (\$500.00).

A record of the conviction of any person under this section upon a charge of driving a vehicle while the license of such person was suspended lawfully shall be sent to the State Department of Motor Vehicles.

- (2) Any person who drives a motor vehicle on any public highway at a time when his or her privilege to do so has been lawfully revoked for driving under the influence of alcohol, controlled substances or other drugs, or any combination thereof, or for driving while having an alcoholic concentration in his or her blood of eight hundredths of one percent or more, by weight, or for refusing to take a secondary chemical test of blood alcohol content, for the first offense shall be imprisoned thirty days and in addition to the mandatory jail sentence, shall be fined not less than one hundred dollars (\$100.00) nor more than five hundred dollars (\$500.00); for the second offense, shall be imprisoned thirty days and in addition to the mandatory jail sentence, shall be fined not less than one thousand dollars (\$1,000) nor more than three thousand dollars (\$3,000); for the third or any subsequent offense, the person is guilty of a felony and shall be prosecuted under appropriate State law.
- (3) Any person who drives a motor vehicle on any public highway at a time when his or her privilege to do so has been lawfully suspended for driving while under the age of twenty-one years with an alcohol concentration in his or her blood of two hundredths of one percent or more, by weight, but less than eight hundredths of one percent, by weight, shall be imprisoned for twenty-four hours or shall be fined not less than fifty dollars (\$50.00) nor more than five hundred dollars (\$500.00), or both.
- (4) An order for home detention by the court pursuant to the provisions of West Virginia Code Article 62-11B may be used as an alternative sentence to any period of incarceration required by this section.

(c) Additional Penalties. Whoever violates Sections 351.02, 351.03, 351.05, 351.09 or 351.11 shall be fined not more than five hundred dollars (\$500.00) or imprisoned not more than thirty days, or both.

**ARTICLE 353
Commercial Drivers**

353.01	Definitions.	353.05	Exemptions.
353.02	Limitation on number of driver's licenses.	353.06	Drivers prohibited from operating with any alcohol in system.
353.03	Employer responsibilities.	353.99	Penalty.
353.04	Commercial driver's license required.		

CROSS REFERENCES

Uniform Commercial Driver's License Act - see W. Va. Code
Art. 17E-1
Commercial vehicles - see TRAF. Art. 347
Driver's licensing - see TRAF. Art. 351

353.01 DEFINITIONS.

Notwithstanding any other provision of this Traffic Code, the following definitions apply to this article:

- (a) "Alcohol" means:
- (1) Any substance containing any form of alcohol, including, but not limited to, ethanol, methanol, propanol and isopropanol;
 - (2) Beer, ale, port or stout and other similar fermented beverages (including sake or similar products) of any name or description containing one half of one percent (0.5%) or more of alcohol by volume, brewed or produced from malt, wholly or in part, or from any substitute therefor;
 - (3) Distilled spirits or that substance known as ethyl alcohol, ethanol or spirits of wine in any form (including all dilutions and mixtures thereof from whatever source or by whatever process produced); or
 - (4) Wine of not less than one half of one percent (0.5%) of alcohol by volume.
- (b) "Alcohol concentration" means:
- (1) The number of grams of alcohol per 100 milliliters of blood; or
 - (2) The number of grams of alcohol per 210 liters of breath; or
 - (3) The number of grams of alcohol per sixty-seven milliliters of urine; or
 - (4) The number of grams of alcohol per eighty-six milliliters of serum.
- (c) "Commercial driver license" means a license issued in accordance with the requirements of West Virginia Code Article 17E-1 to an individual which authorizes the individual to drive a class of commercial motor vehicle.

**AN ORDINANCE OF THE CITY OF GLEN DALE, WEST VIRGINIA,
AMENDING ORDINANCE 353.01 ENTITLED DEFENITIONS TO INCLUDE
DEFINITIONS FOR TEXTING**

WHEREAS, texting and communicating on cell phones while driving constitutes a threat to the safety of the residents and visitors of the City of Glen Dale; and

WHEREAS, the Council of the City of Glen Dale desires to implement ordinances enforcing the prohibiting individual drivers as well as commercial drivers from texting or using cell phones while driving.

BE IT THEREFORE ORDAINED by the Council of the City of Glen Dale, West Virginia.

SECTION ONE: The Council of the City of Glen Dale, hereby ordains

353.01 DEFINITIONS:

Notwithstanding any other provision of this code, the following definitions apply to this article:

(1) "Alcohol" means:

(A) Any substance containing any form of alcohol, including, but not limited to, ethanol, methanol, propenyl and isopropanol;

(B) Beer, ale, port or stout and other similar fermented beverages, including sake or similar products, of any name or description containing one half of one percent or more of alcohol by volume, brewed or produced from malt, wholly or in part, or from any substitute for malt;

(C) Distilled spirits or that substance known as ethyl alcohol, ethanol or spirits of wine in any form including all dilutions and mixtures thereof from whatever source or by whatever process produced; or

(D) Wine of not less than one half of one percent of alcohol by volume.

(2) "Alcohol concentration" means:

(A) The number of grams of alcohol per one hundred milliliters of blood;

(B) The number of grams of alcohol per two hundred ten liters of breath;

(C) The number of grams of alcohol per sixty-seven milliliters of urine; or

(D) The number of grams of alcohol per eighty-six milliliters of serum.

(3) "At fault traffic accident" means, for the purposes of waiving the road test, a determination of fault by the official filing the accident report as evidenced by an indication of contributing circumstances in the accident report.

(4) "Commercial driver's license" means a license or an instruction permit issued in accordance with the requirements of this article to an individual which authorizes the individual to drive a class of commercial motor vehicle.

(5) "Commercial driver's license information system" is the information system established pursuant to the Federal Commercial Motor Vehicle Safety Act to serve as a clearinghouse for locating information related to the licensing and identification of commercial motor vehicle drivers.

(6) "Commercial driver instruction permit" means a permit issued pursuant to West Virginia Code 17E-1-9(d).

(7) "Commercial motor vehicle" means a motor vehicle designed or used to transport passengers or property:

(A) If the vehicle has a gross combination vehicle weight rating of twenty-six thousand one pounds or more inclusive of a towed unit(s) with a gross vehicle weight rating of more than ten thousand pounds;

(B) If the vehicle has a gross vehicle weight rating of twenty-six thousand one pounds or more;

(C) If the vehicle is designed to transport sixteen or more passengers, including the driver; or

(D) If the vehicle is of any size and transporting hazardous materials as defined in this section.

(8) "Commissioner" means the Commissioner of Motor Vehicles of this state.

(9) "Controlled substance" means any substance classified under the provisions of chapter sixty-a of West Virginia Code, the Uniform Controlled Substances Act, and includes all substances listed on Schedules I through V, inclusive, of article two of said chapter, as revised. The term "controlled substance" also has the meaning such term has under 21 U.S.C. §802.6 and includes all substances listed on Schedules I through V of 21 C.F.R. §1308 as they may be amended by the United States Department of Justice.

(10) "Conviction" means an unvacated adjudication of guilt; a determination that a person has violated or failed to comply with the law in a court of original jurisdiction or by an authorized administrative tribunal or proceeding; an unvacated forfeiture of bail or collateral deposited to secure the persons appearance in court; a plea of guilty or nolo contendere accepted by the court or the payment of a fine or court cost or violation of a condition of release without bail regardless of whether or not the penalty is rebated, suspended, or probated.

(11) "Division" means the Division of Motor Vehicles.

(12) "Disqualification" means any of the following three actions:

(A) The suspension, revocation, or cancellation of a driver's license by the state or jurisdiction of issuance.

(B) Any withdrawal of a person's privilege to drive a commercial motor vehicle by a state or other jurisdiction as the result of a violation of state or local law relating to motor vehicle traffic control other than parking or vehicle weight except as to violations committed by a special permittee on the coal resource transportation system or vehicle defect violations.

(C) A determination by the Federal Motor Carrier Safety Administration that a person is not qualified to operate a commercial motor vehicle under 49 C.F.R. Part §391 (2004).

(13) "Drive" means to drive, operate or be in physical control of a motor vehicle in any place open to the general public for purposes of vehicular traffic. For the purposes of section 353.06, "drive" includes operation or physical control of a motor vehicle anywhere in this state.

(14) "Driver" means a person who drives, operates or is in physical control of a commercial motor vehicle in any place open to the general public for purposes of vehicular traffic or who is required to hold a commercial driver's license.

(15) "Driver's license" means a license issued by a state to an individual which authorizes the individual to drive a motor vehicle of a specific class.

(16) "Electronic device" includes, but is not limited to, a cellular telephone, personal digital assistant, pager or any other device used to input, write, send, receive, or read text.

(17) "Employee" means an operator of a commercial motor vehicle, including full time, regularly employed drivers, casual, intermittent or occasional drivers, leased drivers and independent, owner-operator contractors when operating a commercial

motor vehicle, who are either directly employed by or under lease to drive a commercial motor vehicle for an employer.

(18) "Employer" means a person, including the United States, a state or a political subdivision of a state, who owns or leases a commercial motor vehicle or assigns a person to drive a commercial motor vehicle.

(19) "Endorsement" means an authorization to a person to operate certain types of commercial motor vehicles.

(20) "Farm vehicle" includes a motor vehicle or combination vehicle registered to a farm owner or entity operating the farm and used exclusively in the transportation of agricultural or horticultural products, livestock, poultry and dairy products from the farm or orchard on which they are raised or produced to markets, processing plants, packing houses, canneries, railway shipping points and cold storage plants and in the transportation of agricultural or horticultural supplies and machinery to the farms or orchards to be used on the farms or orchards.

(21) "Farmer" includes an owner, tenant, lessee, occupant or person in control of the premises used substantially for agricultural or horticultural pursuits who is at least eighteen years of age with two years licensed driving experience.

(22) "Farmer vehicle driver" means the person employed and designated by the "farmer" to drive a "farm vehicle" as long as driving is not his or her sole or principal function on the farm and who is at least eighteen years of age with two years licensed driving experience.

(23) "Felony" means an offense under state or federal law that is punishable by death or imprisonment for a term exceeding one year.

(24) "Gross combination weight rating (GCWR)" means the value specified by the manufacturer as the loaded weight of a combination, articulated vehicle. In the absence of a value specified by the manufacturer, GCWR will be determined by adding the gross vehicle weight rating (GVWR) of the power unit and the total weight of the towed unit and load, if any.

(25) "Gross vehicle weight rating (GVWR)" means the value specified by the manufacturer as the loaded weight of a single vehicle. In the absence of a value specified by the manufacturer, the GVWR will be determined by the total weight of the vehicle and load, if any.

(26) "Hazardous materials" means any material that has been designated as hazardous under 49 U.S.C. §5103 and is required to be placarded under subpart F of 49 C.F.R., Part §172 or any quantity of a material listed as a select agent or toxin in 42 C.F.R., Part §73.

(27) "Imminent hazard" means existence of a condition that presents a substantial likelihood that death, serious illness, severe personal injury or a substantial endangerment to health, property or the environment may occur before the reasonably foreseeable completion date of a formal proceeding begun to lessen the risk of that death, illness, injury or endangerment.

(28) "Issuance of a license" means the completion of a transaction signifying that the applicant has met all the requirements to qualify for, including, but not limited to: The initial issuance of a driver's license, the renewal of a driver's license, the issuance of a duplicate license as a replacement to a lost or stolen driver's license, the transfer of any level of driving privileges including the privilege of operating a commercial motor vehicle from another state or jurisdiction, the changing of driver's license class, restrictions or endorsements or the change of any other information pertaining to an applicant either appearing on the face of a driver's license or within the driver record of the licensee maintained by the division.

(29) "Motor vehicle" means every vehicle which is self-propelled and every vehicle which is propelled by electric power obtained from overhead trolley wires but not operated upon rails.

(30) "Noncommercial motor vehicle" means a motor vehicle or combination of motor vehicles not defined by the term "commercial motor vehicle".

(31) "Out-of-service order" means a declaration by an authorized enforcement officer of a federal, state, Canadian, Mexican, county or local jurisdiction including any special agent of the Federal Motor Carrier Safety Administration that a driver, a commercial motor vehicle, or a motor carrier operation is out of service pursuant to 49 C.F.R. §§386.72, 392.5, 395.13, 396.9 or compatible laws or the North American uniform out-of-service criteria that an imminent hazard exists.

(32) "Violation of an out-of-service order" means:

(A) The operation of a commercial motor vehicle during the period the driver was placed out-of-service;

(B) The operation of a commercial motor vehicle by a driver after the vehicle was placed out-of-service and before the required repairs are made; or

(C) The operation of any commercial vehicle by a motor carrier operation after the carrier has been placed out of service.

(33) "School bus" means a commercial motor vehicle used to transport preprimary, primary or secondary school students from home-to-school, from school-to-home or to and from school sponsored events. School bus does not include a bus used as a common carrier.

(34) "Serious traffic violation" means conviction for any of the following offenses when operating a commercial motor vehicle:

(A) Excessive speeding involving any single offense for any speed of fifteen miles per hour or more above the posted limits;

(B) Reckless driving as defined in section three, article five, chapter seventeen-c of West Virginia Code and careless or negligent driving, including, but not limited to, the offenses of driving a commercial motor vehicle in willful or wanton disregard for the safety of persons or property;

(C) Erratic or improper traffic lane changes including, but not limited to, passing a school bus when prohibited, improper lane changes and other passing violations;

(D) Following the vehicle ahead too closely;

(E) Driving a commercial motor vehicle without obtaining a commercial driver's license;

(F) Driving a commercial motor vehicle without a commercial driver's license in the driver's possession. However, any person who provides proof to the law-enforcement agency that issued the citation, by the date the person must appear in court or pay any fine for such violation, that the person held a valid commercial driver's license on the date the citation was issued, shall not be guilty of this offense;

(G) Driving a commercial motor vehicle without the proper class of commercial driver's license or endorsements for the specific vehicle group being operated or for the passengers or type of cargo being transported;

(H) A violation of state or local law relating to motor vehicle traffic control, other than a parking violation, arising in connection with a fatal traffic accident; or

(I) Any other serious violations determined by the United States Secretary of Transportation.

(J) Vehicle defects are excluded as serious traffic violations except as to violations committed by a special permittee on the coal resource transportation road system.

(35) "State" means a state of the United States and the District of Columbia or a province or territory of Canada or a state or federal agency of the United Mexican States.

(36) "State of domicile" means the state where a person has his or her true, fixed and permanent home and principle residence and to which he or she has the intention of returning whenever absent in accordance with West Virginia Code 17A-3-1ca).

(37) "Suspension, revocation or cancellation" of a driver's license or a commercial driver's license means the privilege to operate any type of motor vehicle on the roads and highways of this state is withdrawn.

(38) "Tank vehicle" means any commercial motor vehicle that is designed to transport any liquid or gaseous materials within a tank that is either permanently or temporarily attached to the vehicle or the chassis. These vehicles include, but are not limited to, cargo tanks and portable tanks as defined in 49 C. F. R. Part 171 (1998). This definition does not include portable tanks having a rated capacity under one thousand gallons.

(39) "Texting" means manually entering alphanumeric text into or reading text from an electronic device.

(A) This action includes, but is not limited to, short messaging service, e-mailing, instant messaging and a command or request to access a World Wide Web page or engaging in any other form of electronic text retrieval or entry for present or future communication.

(B) Texting does not include:

(i) Reading, selecting or entering a telephone number, an extension number or voicemail retrieval codes and commands into an electronic device for the purpose of initiating or receiving a phone call or using voice commands to initiate or receive a telephone call;

(ii) Inputting, selecting or reading information on a global positioning system or navigation system; or

(iii) Using a device capable of performing multiple functions including, but not limited to, fleet management systems, dispatching devices, smart phones, citizen band radios or music players for a purpose that is not otherwise prohibited by this section

(40) "Transportation Security Administration" means the United States Department of Homeland Security Transportation Security Administration.

(41) "United States" means the fifty states and the District of Columbia.

(42) "Valid or Certified Medical Certification Status" means that an applicant or driver has a current medical evaluation or determination by a licensed physician that the applicant or driver meets the minimum federal motor carrier safety administration physical qualifications within the prescribed time frames pursuant 49 CFR Part §391. Not-certified means that an applicant or driver does not have a current medical evaluation or has not been certified by a licensed physician as meeting the minimum

federal motor carrier safety administration physical qualifications pursuant 49 CFR Part §391.

(43)"Vehicle Group" means a class or type of vehicle with certain operating characteristics.

SECTION TWO: This Ordinance shall be effective from and after its date of passage.

Passed First Reading: _____

Passed Second Reading: _____

Dave Blazer, Mayor

ATTEST:

Jane Criswell-Rickman, City Clerk

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- (m) "Farm vehicle" includes a motor vehicle or combination vehicle registered to the farm owner or entity operating the farm and used exclusively in the transportation of agricultural or horticultural products, livestock, poultry and dairy products from the farm or orchard on which they are raised or produced to markets, processing plants, packing houses, canneries, railway shipping points and cold storage plants and in the transportation of agricultural or horticultural supplies and machinery to such farms or orchards to be used thereon.
- (n) "Farmer" includes owner, tenant, lessee, occupant or person in control of the premises used substantially for agricultural or horticultural pursuits, who is at least eighteen years of age with two years licensed driving experience.
- (o) "Farmer vehicle driver" means the person employed and designated by the farmer to drive a farm vehicle as long as driving is not his sole or principal function on the farm, who is at least eighteen years of age with two years licensed driving experience.
- (p) "Motor vehicle" means every vehicle which is self-propelled, and every vehicle which is propelled by electric power obtained from overhead trolley wires but not operated upon rails.
- (q) "Out-of-service order" means a temporary prohibition against driving a commercial motor vehicle as a result of a determination by a law-enforcement officer, an authorized enforcement officer of a federal, state, Canadian, Mexican, county or local jurisdiction including any special agent of the Federal Motor Carrier Safety Administration pursuant to 49 C.F.R. §§386.72, 392.5, 395.13, 396.9 or compatible laws or the North American uniform out-of-service criteria that an imminent hazard exists.
- (r) "Violation of an out-of-service order" means:
 - (1) The operation of a commercial motor vehicle during the period the driver was placed out of service; or
 - (2) The operation of a commercial motor vehicle by a driver after the vehicle was placed out of service and before the required repairs are made.
(WVaC 17E-1-3)

353.02 LIMITATION ON NUMBER OF DRIVER'S LICENSES.

No person who drives a commercial motor vehicle shall have more than one driver license at one time. (WVaC 17E-1-4)

353.03 EMPLOYER RESPONSIBILITIES.

(a) Each employer shall require the applicant to provide the information specified in West Virginia Code 17E-1-5.

(b) No employer may knowingly allow, permit, require or authorize a driver to drive a commercial motor vehicle during any period in which the driver:

- (1) Has a driver's license suspended, revoked or canceled by a state; has lost the privilege to drive a commercial motor vehicle in a state, or has been disqualified from driving a commercial motor vehicle;
- (2) Has more than one driver's license at one time.
- (3) Or the commercial motor vehicle he or she is driving or the motor carrier operation, is subject to an out-of-service order;
- (4) Is in violation of federal, state or local law or regulation pertaining to railroad highway grade crossings; or

**AN ORDINANCE OF THE CITY OF GLEN DALE, WEST VIRGINIA,
AMENDING ORDINANCE 353.03 ENTITLED EMPLOYER RESPONSIBILITIES**

SECTION ONE: The Council of the City of Glen Dale, hereby ordains.
353.03 EMPLOYER RESPONSIBILITIES:

(a) Each employer shall require the applicant to provide the information specified in West Virginia Code Section 17E-1-5.

(b) No employer may knowingly allow, permit, require or authorize a driver to drive a commercial motor vehicle during any period in which the driver:

(1) Has a driver's license suspended, revoked or canceled by a state; has lost the privilege to drive a commercial motor vehicle in a state or has been disqualified from driving a commercial motor vehicle;

(2) Has more than one driver's license at one time;

(3) The commercial motor vehicle he or she is driving or the motor carrier operation is subject to an out-of-service order;

(4) Is in violation of federal, state or local law or regulation pertaining to railroad highway grade crossings; or

(5) Is in violation of any provision of 49 C.F.R., Part § 382 related to controlled substances and alcohol use and testing. (W. Va. C 17E-1-6)

(c) No employer may require or allow a driver to operate a commercial motor vehicle while texting.

SECTION TWO: This Ordinance shall be effective from and after its date of passage.

Passed First Reading: _____

Passed Second Reading: _____

Dave Blazer, Mayor

ATTEST:

Jane Criswell-Rickman, City Clerk

- (5) Is in violation of any provision of 49 C.F.R., Part §382 related to controlled substances and alcohol use and testing.
(WVaC 17E-1-6)

353.04 COMMERCIAL DRIVER'S LICENSE REQUIRED.

(a) Except when driving under a commercial driver's instruction permit accompanied by the holder of a commercial driver's license valid for the vehicle being driven, no person shall drive a commercial motor vehicle unless the person holds a commercial driver's license and applicable endorsements valid for the vehicle they are driving.

(b) No person shall drive a commercial motor vehicle while their driving privilege is suspended, revoked, canceled, expired, subject to a disqualification, or in violation of an out-of-service order.

(c) Drivers of a commercial motor vehicle shall have a commercial driver's license in their possession at all times while driving.
(WVaC 17E-1-7)

353.05 EXEMPTIONS.

(a) Farmers. Bona fide farmers or farm vehicle drivers, as defined, operating a vehicle otherwise covered by the commercial driver's license requirements may be exempted from the provisions of this article only if the vehicle used is:

- (1) Driven by a farmer or farm vehicle driver;
- (2) Used only to transport either agricultural products, farm machinery, farm supplies, to or from a farm;
- (3) Not used in the operation of a common or contract motor carrier; and
- (4) Used within 150 miles of the qualifying farm. Farmers who wish to be exempted from the commercial driver's license requirements must apply to the Division of Motor Vehicles for a certificate of exemption.

(b) Military Personnel. Active duty military personnel operating vehicles being used for military purposes are exempted from the provisions of this article in accordance with the provisions of 49 CFR § 383.3 (c)(2006).

(c) Fire Fighting and Rescue Equipment. Operators of vehicles authorized to hold an authorized emergency vehicle permit for use of red signal lights only are exempt from the provisions of this article while the authorized emergency vehicle permit is in force. Vehicles in this class include, but are not limited to, fire fighters and rescue equipment:

- (1) Owned and operated by state, county and municipal fire departments.
- (2) Owned and operated by state, county and municipal civil defense organizations.
- (3) Owned and operated by a manufacturer engaged in a type of business that requires fire fighter equipment to protect the safety of their plants and its employees.
- (4) Owned and operated by volunteer fire departments.

(d) Operators of Off-Road Construction and Mining Equipment. Operators of equipment which, by its design, appearance and function, is not intended for use on a public road, including, without limitation, motorscrapers, backhoes, motorgraders, compactors, excavators, tractors, trenches and bulldozers, are exempt from the provisions of this article: Provided, that the exemption recognized by this subsection shall not be construed to permit the operation of such equipment on any public road except such operation as may be required for a crossing of such road: Provided, however, that no such equipment may be operated on a public road for a distance exceeding five hundred feet from the place where such equipment entered upon the public road.

(e) Exempt Vehicles. The Federal Motor Carrier Safety Improvement Act of 1999 exempts vehicles used exclusively for personal use such as recreation vehicles and rental trucks used only to transport the driver's personal or household property.
(WVaC 17E-1-8)

353.06 DRIVERS PROHIBITED FROM OPERATING WITH ANY ALCOHOL IN SYSTEM.

(a) In addition to any other penalties provided by the West Virginia Code or these Codified Ordinances, any person who drives, operates or is in physical control of a commercial motor vehicle while having an alcohol concentration in his or her blood, breath or urine of four hundredths of one percent or more, by weight, shall be imprisoned for not less than twenty-four hours nor more than thirty days, and shall be fined not less than one hundred dollars (\$100.00) nor more than five hundred dollars (\$500.00). A person convicted of a second or any subsequent offense under the provisions of this subsection shall be imprisoned for a period of thirty days, and the court may, in its discretion, impose a fine of not less than one thousand dollars (\$1,000) nor more than three thousand dollars (\$3,000).

(b) A person who violates the provisions of subsection (a) of this section shall be treated in the same manner set forth in West Virginia Code 17C-19-3, as if he or she had been arrested for driving under the influence of alcohol or of any controlled substance.

(c) In addition to any other penalties provided by the West Virginia Code or these Codified Ordinances, a person who drives, operates or is in physical control of a commercial motor vehicle having any measurable alcohol in such person's system or who refuses to take a preliminary breath test to determine such person's blood alcohol content as provided by West Virginia Code 17E-1-15 shall be placed out of service for twenty-four hours by the arresting law-enforcement officer. (WVaC 17E-1-14)

353.99 PENALTY.

Unless another penalty is provided in this article, whoever violates any provision of this article shall be fined not less than one hundred dollars (\$100.00) nor more than one thousand dollars (\$1,000), or imprisoned for not more than thirty days, or both except that for the second violation of Section 353.04, the offender shall be fined not less than five hundred dollars (\$500.00) nor more than two thousand dollars (\$2,000) or imprisoned not more than thirty days, or both. For the third or any subsequent conviction for violation of Section 353.04, the offender shall be fined not less than one thousand dollars (\$1,000) nor more than two thousand five hundred dollars (\$2,500), or imprisoned for not more than thirty days, or both.
(WVaC 17E-1-25)

**AN ORDINANCE OF THE CITY OF GLEN DALE, WEST VIRGINIA,
DEFINING ACTIONS AND CONDITIONS DISQUALIFYING AN INDIVIDUAL
FROM OPERATING A COMMERCIAL MOTOR VEHICLE AND PENALTIES**

SECTION ONE: The Council of the City of Glen Dale, hereby ordains

353.07 DISQUALIFICATIONS:

(a) A person may not operate a commercial motor vehicle if his or her privilege to operate a commercial motor vehicle is disqualified under the provisions of the Federal Motor Carrier Safety Improvement Act of 1999, 49 C.F.R. Part §383, Subpart D (2004) or in accordance with the provisions of this section.

(1) For the purposes of determining first and subsequent violations of the offenses listed in this section, each conviction resulting from a separate incident includes convictions for offenses committed in a commercial motor vehicle or a noncommercial motor vehicle.

(2) Any person disqualified from operating a commercial motor vehicle for life under the provisions of this chapter for offenses described in subsection (b,) subdivisions (4) and (6) of this section is eligible for reinstatement of privileges to operate a commercial motor vehicle after ten years and after completion of the Safety and Treatment Program or other appropriate program prescribed by the division. Any person whose lifetime disqualification has been amended under the provisions of this subdivision and who is subsequently convicted of a disqualifying offense described in subsection (b), subdivisions (1) through (8) of this section, is not eligible for reinstatement.

(3) Any disqualification imposed by this section is in addition to any action to suspend, revoke or cancel the driver's license or driving privileges if suspension, revocation or cancellation is required under another provision of the West Virginia Code.

(4) The provisions of this section apply to any person operating a commercial motor vehicle and to any person holding a commercial driver's license.

(b) Any person is disqualified from driving a commercial motor vehicle for the following offenses and time periods if convicted of:

(1) Driving a motor vehicle under the influence of alcohol or a controlled substance;

(A) For a first conviction or for refusal to submit to any designated secondary chemical test while operating a commercial motor vehicle, a driver is disqualified from operating a commercial motor vehicle for a period of one year.

(B) For a first conviction or for refusal to submit to any designated secondary chemical test while operating a noncommercial motor vehicle, a commercial driver's license holder is disqualified from operating a commercial motor vehicle for a period of one year.

(C) For a first conviction or for refusal to submit to any designated secondary chemical test while operating a commercial motor vehicle transporting hazardous materials required to be placarded under 49 C.F.R. Part §172, Subpart F, a driver is disqualified from operating a commercial motor vehicle for a period of three years.

(D) For a second conviction or for refusal to submit to any designated secondary chemical test in a separate incident of any combination of offenses in this subsection while operating a commercial motor vehicle, a driver is disqualified from operating a commercial motor vehicle for life.

(E) For a second conviction or refusal to submit to any designated secondary chemical test in a separate incident of any combination of offenses in this subsection while operating a noncommercial motor vehicle, a commercial motor vehicle license holder is disqualified from operating a commercial motor vehicle for life.

(2) Driving a commercial motor vehicle while the person's alcohol concentration of the person's blood, breath or urine is four hundredths of one percent or more, by weight;

(A) For a first conviction or for refusal to submit to any designated secondary chemical test while operating a commercial motor vehicle, a driver is disqualified from operating a commercial motor vehicle for one year.

(B) For a first conviction or for refusal to submit to any designated secondary chemical test while operating a commercial motor vehicle transporting hazardous materials required to be placarded under 49 C.F.R. Part §172, Subpart F, a driver is disqualified from operating a commercial motor vehicle for three years.

(C) For a second conviction or refusal to submit to any designated secondary chemical test in a separate incident of any combination of offenses in this subsection while operating a commercial motor vehicle, a driver is disqualified from operating a commercial motor vehicle for life.

(3) Refusing to submit to any designated secondary chemical test required by the provisions of this code or the provisions of 49 C.F.R. §383.72 (2004);

(A) For the first conviction or refusal to submit to any designated secondary chemical test while operating a commercial motor vehicle, a driver is disqualified from operating a commercial motor vehicle for one year.

(B) For the first conviction or refusal to submit to any designated secondary chemical test while operating a noncommercial motor vehicle, a commercial driver's license holder is disqualified from operating a commercial motor vehicle for one year.

(C) For the first conviction or for refusal to submit to any designated secondary chemical test while operating a commercial motor vehicle transporting hazardous materials required to be placarded under 49 C.F.R. Part §172, Subpart F (2004), a driver is disqualified from operating a commercial motor vehicle for a period of three years.

(D) For a second conviction or refusal to submit to any designated secondary chemical test in a separate incident of any combination of offenses in this subsection while operating a commercial motor vehicle, a driver is disqualified from operating a commercial motor vehicle for life.

(E) For a second conviction or refusal to submit to any designated secondary chemical test in a separate incident of any combination of offenses in this subsection while operating a noncommercial motor vehicle, a commercial driver's license holder is disqualified from operating a commercial motor vehicle for life.

(4) Leaving the scene of an accident;

(A) For the first conviction while operating a commercial motor vehicle, a driver is disqualified from operating a commercial motor vehicle for one year.

(B) For the first conviction while operating a noncommercial motor vehicle, a commercial driver's license holder is disqualified for one year.

(C) For the first conviction while operating a commercial motor vehicle transporting hazardous materials required to be placarded under 49 C.F.R. Part §172, Subpart F (2004), a driver is disqualified from operating a commercial motor vehicle for a period of three years.

(D) For a second conviction in a separate incident of any combination of offenses in this subsection while operating a commercial motor vehicle, a driver is disqualified from operating a commercial motor vehicle for life.

(E) For a second conviction in a separate incident of any combination of offenses in this subsection while operating a noncommercial motor vehicle, a commercial driver's license holder is disqualified from operating a commercial motor vehicle for life.

(5) Using a motor vehicle in the commission of any felony as defined in section three, article one of this chapter except that the commission of any felony involving the manufacture, distribution or dispensing of a controlled substance or possession with

intent to manufacture, distribute or dispense a controlled substance falls under the provisions of subdivision eight of this subsection;

(A) For the first conviction while operating a commercial motor vehicle, a driver is disqualified from operating a commercial motor vehicle for one year.

(B) For the first conviction while operating a noncommercial motor vehicle, a commercial driver's license holder is disqualified from operating a commercial motor vehicle for one year.

(C) For the first conviction while operating a commercial motor vehicle transporting hazardous materials required to be placarded under 49 C.F.R. Part §172, Subpart F,(2004), a driver is disqualified from operating a commercial motor vehicle for a period of three years.

(D) For a second conviction in a separate incident of any combination of offenses in this subsection while operating a commercial motor vehicle, a driver is disqualified from operating a commercial motor vehicle for life.

(E) For a second conviction in a separate incident of any combination of offenses in this subsection while operating a noncommercial motor vehicle, a commercial motor vehicle license holder is disqualified from operating a commercial motor vehicle for life.

(6) Operating a commercial motor vehicle when, as a result of prior violations committed operating a commercial motor vehicle, the driver's privilege to operate a motor vehicle has been suspended, revoked or canceled or the driver's privilege to operate a commercial motor vehicle has been disqualified.

(A) For the first conviction while operating a commercial motor vehicle, a driver is disqualified from operating a commercial motor vehicle for one year.

(B) For the first conviction while operating a commercial motor vehicle transporting hazardous materials required to be placarded under 49 C.F.R. Part §172, Subpart F,(2004), a driver is disqualified from operating a commercial motor vehicle for a period of three years.

(C) For a second conviction in a separate incident of any combination of offenses in this subsection while operating a commercial motor vehicle, a driver is disqualified from operating a commercial motor vehicle for life.

(7) Causing a fatality through the negligent operation of a commercial motor vehicle, including, but not limited to, the crimes of motor vehicle manslaughter, homicide and negligent homicide as defined in section five, article three, chapter seventeen-b, and section one, article five, chapter seventeen-c of this code;

(A) For the first conviction while operating a commercial motor vehicle, a driver is disqualified from operating a commercial motor vehicle for one year.

(B) For the first conviction while operating a commercial motor vehicle transporting hazardous materials required to be placarded under 49 C.F.R. Part §172, Subpart F,(2004), a driver is disqualified from operating a commercial motor vehicle for a period of three years.

(C) For a second conviction in a separate incident of any combination of offenses in this subsection while operating a commercial motor vehicle, a driver is disqualified from operating a commercial motor vehicle for life.

(8) Using a motor vehicle in the commission of any felony involving the manufacture, distribution or dispensing of a controlled substance or possession with intent to manufacture, distribute or dispense a controlled substance, a driver is disqualified from operating a commercial motor vehicle for life and is not eligible for reinstatement.

(c) Any person is disqualified from driving a commercial motor vehicle if convicted of;

(1) Speeding excessively involving any speed of fifteen miles per hour or more above the posted speed limit;

(A) For a second conviction of any combination of offenses in this subsection in a separate incident within a three year period while operating a commercial motor vehicle, a driver is disqualified from operating a commercial motor vehicle for a period of sixty days.

(B) For a second conviction of any combination of offenses in this section in a separate incident within a three-year period while operating a noncommercial motor vehicle, if the conviction results in the suspension, revocation or cancellation of the commercial driver's license holder's privilege to operate any motor vehicle, a commercial driver's license holder is disqualified from operating a commercial motor vehicle for a period of sixty days.

(C) For a third or subsequent conviction of any combination of the offenses in this subsection in a separate incident in a three- year period while operating a commercial motor vehicle, a driver is disqualified from operating a commercial motor vehicle for a period of one hundred twenty days.

(D) For a third or subsequent conviction of any combination of offenses in this subsection in a separate incident within a three- year period while operating a noncommercial motor vehicle, if the conviction results in the suspension, revocation or cancellation of the commercial driver's license holder's privilege to operate any motor

vehicle, a commercial driver's license holder shall be disqualified from operating a commercial motor vehicle for a period of one hundred twenty days.

(2) Reckless driving as defined in section three, article five, chapter seventeen-c of West Virginia Code, careless, or negligent driving including, but not limited to, the offenses of driving a motor vehicle in willful or wanton disregard for the safety of persons or property;

(A) For a second conviction of any combination of offenses in this subsection in a separate incident within a three-year period while operating a commercial motor vehicle, a driver is disqualified from operating a commercial motor vehicle for a period of sixty days.

(B) For a second conviction of any combination of offenses in this section in a separate incident within a three-year period while operating a noncommercial motor vehicle, if the conviction results in the suspension, revocation or cancellation of the commercial driver's license holder's privilege to operate any motor vehicle, a commercial driver's license holder is disqualified from operating a commercial motor vehicle for a period of sixty days.

(C) For a third or subsequent conviction of any combination of the offenses in this subsection in a separate incident in a three- year period while operating a commercial motor vehicle, a driver is disqualified from operating a commercial motor vehicle for a period of one hundred twenty days.

(D) For a third or subsequent conviction of any combination of offenses in this subsection in a separate incident within a three- year period while operating a noncommercial motor vehicle, if the conviction results in the suspension, revocation or cancellation of the commercial driver's license holder's privilege to operate any motor vehicle, a commercial driver's license holder is disqualified from operating a commercial motor vehicle for a period of one hundred twenty days.

(3) Making improper or erratic traffic lane changes;

(A) For a second conviction of any combination of offenses in this subsection in a separate incident within a three-year period while operating a commercial motor vehicle, a driver is disqualified from operating a commercial motor vehicle for a period of sixty days.

(B) For a second conviction of any combination of offenses in this section in a separate incident within a three-year period while operating a noncommercial motor vehicle, if the conviction results in the suspension, revocation, or cancellation of the commercial driver's license holder's privilege to operate any motor vehicle, a commercial driver's license holder is disqualified from operating a commercial motor vehicle for a period of sixty days.

(C) For a third or subsequent conviction of any combination of the offenses in this subsection in a separate incident in a three- year period while operating a commercial motor vehicle, a driver is disqualified from operating a commercial motor vehicle for a period of one hundred twenty days.

(D) For a third or subsequent conviction of any combination of offenses in this subsection in a separate incident within a three- year period while operating a noncommercial motor vehicle, if the conviction results in the suspension, revocation or cancellation of the commercial driver's license holder's privilege to operate any motor vehicle, a commercial driver's license holder is disqualified from operating a commercial motor vehicle for a period of one hundred twenty days.

(4) Following the vehicle ahead too closely;

(A) For a second conviction of any combination of offenses in this subsection in a separate incident within a three-year period while operating a commercial motor vehicle, a driver is disqualified from operating a commercial motor vehicle for a period of sixty days.

(B) For a second conviction of any combination of offenses in this section in a separate incident within a three-year period while operating a noncommercial motor vehicle, if the conviction results in the suspension, revocation, or cancellation of the commercial driver's license holder's privilege to operate any motor vehicle, a commercial driver's license holder is disqualified from operating a commercial motor vehicle for a period of sixty days.

(C) For a third or subsequent conviction of any combination of the offenses in this subsection in a separate incident in a three- year period while operating a commercial motor vehicle, a driver is disqualified from operating a commercial motor vehicle for a period of one hundred twenty days.

(D) For a third or subsequent conviction of any combination of offenses in this subsection in a separate incident within a three- year period while operating a noncommercial motor vehicle, if the conviction results in the suspension, revocation or cancellation of the commercial driver's license holder's privilege to operate any motor vehicle, a commercial driver's license holder is disqualified from operating a commercial motor vehicle for a period of one hundred twenty days.

(5) Violating any law relating to traffic control arising in connection with a fatal accident, other than a parking violation;

(A) For a second conviction of any combination of offenses in this subsection in a separate incident within a three-year period while operating a commercial motor vehicle, a driver is disqualified from operating a commercial motor vehicle for a period of sixty days.

(B) For a second conviction of any combination of offenses in this section in a separate incident within a three-year period while operating a noncommercial motor vehicle, if the conviction results in the suspension, revocation, or cancellation of the commercial driver's license holder's privilege to operate any motor vehicle, a commercial driver's license holder is disqualified from operating a commercial motor vehicle for a period of sixty days.

(C) For a third or subsequent conviction of any combination of the offenses in this subsection in a separate incident in a three- year period while operating a commercial motor vehicle, a driver is disqualified from operating a commercial motor vehicle for a period of one hundred twenty days.

(D) For a third or subsequent conviction of any combination of offenses in this subsection in a separate incident within a three- year period while operating a noncommercial motor vehicle, if the conviction results in the suspension, revocation or cancellation of the commercial driver's license holder's privilege to operate any motor vehicle, a commercial motor vehicle license holder is disqualified from operating a commercial motor vehicle for a period of one hundred twenty days.

(6) Driving a commercial motor vehicle without obtaining a commercial driver's license;

(A) For a second conviction of any combination of offenses in this subsection in a separate incident within a three-year period while operating a commercial motor vehicle, a driver is disqualified from operating a commercial motor vehicle for a period of sixty days.

(B) For a third or subsequent conviction of any combination of the offenses in this subsection in a separate incident in a three- year period while operating a commercial motor vehicle, a driver is disqualified from operating a commercial motor vehicle for a period of one hundred twenty days.

(7) Driving a commercial motor vehicle without a commercial driver's license in the driver's possession except that any person who provides proof of possession of a commercial driver's license to the enforcement agency that issued the citation by the court appearance or fine payment deadline is not guilty of this offense;

(A) For a second conviction of any combination of offenses in this subsection in a separate incident within a three-year period while operating a commercial motor vehicle, a commercial driver's license holder is disqualified from operating a commercial motor vehicle for a period of sixty days.

(B) For a third or subsequent conviction of any combination of the offenses in this subsection in a separate incident in a three- year period while operating a commercial

motor vehicle, a commercial driver's license holder is disqualified from operating a commercial motor vehicle for a period of one hundred twenty days.

(8) Driving a commercial motor vehicle without the proper class of commercial driver's license or the proper endorsements for the specific vehicle group being operated or for the passengers or type of cargo being transported;

(A) For a second conviction of any combination of offenses in this subsection in a separate incident within a three-year period while operating a commercial motor vehicle, a commercial driver's license holder is disqualified from operating a commercial motor vehicle for a period of sixty days.

(B) For a third or subsequent conviction of any combination of the offenses in this subsection in a separate incident in a three- year period while operating a commercial motor vehicle, a commercial driver's license holder is disqualified from operating a commercial motor vehicle for a period of one hundred twenty days.

(9) Driving a commercial motor vehicle while engaged in texting and convicted pursuant to section fourteen-a of this article or similar law of this or any other jurisdiction or 49 CFR §392.80;

(A) For a second conviction of any combination of offenses in this subsection in a separate incident within a three-year period while operating a commercial motor vehicle, a commercial driver's license holder is disqualified from operating a commercial motor vehicle for a period of sixty days.

(B) For a third or subsequent conviction of any combination of the offenses in this subsection in a separate incident in a three- year period while operating a commercial motor vehicle, a commercial driver's license holder is disqualified from operating a commercial motor vehicle for a period of one hundred twenty days.

(d) Any person convicted of operating a commercial motor vehicle in violation of any federal, state or local law or ordinance pertaining to railroad crossing violations described in subdivisions (1) through (6) of this subsection, is disqualified from operating a commercial motor vehicle for the period of time specified;

(1) Failing to slow down and check that the tracks are clear of an approaching train, if not required to stop in accordance with the provisions of section three, article twelve, chapter seventeen- c of West Virginia Code;

(A) For the first conviction, a driver is disqualified from operating a commercial motor vehicle for a period of sixty days;

(B) For a second conviction of any combination of offenses in this subsection within a three-year period, a driver is disqualified from operating a commercial motor vehicle for one hundred twenty days; and

(C) For a third or subsequent conviction of any combination of offenses in this subsection within a three-year period, a driver is disqualified from operating a commercial motor vehicle for one year.

(2) Failing to stop before reaching the crossing, if the tracks are not clear, if not required to stop, in accordance with the provisions of section one, article twelve, chapter seventeen-c of the West Virginia Code;

(A) For the first conviction, a driver is disqualified from operating a commercial motor vehicle for a period of sixty days;

(B) For a second conviction of any combination of offenses in this subsection within a three-year period, a driver is disqualified from operating a commercial motor vehicle for one hundred twenty days; and

(C) For a third or subsequent conviction of any combination of offenses in this subsection within a three-year period, a driver is disqualified from operating a commercial motor vehicle for one year.

(3) Failing to stop before driving onto the crossing, if required to stop in accordance with the provisions of section three, article twelve, chapter seventeen-c of the West Virginia Code;

(A) For the first conviction, a driver is disqualified from operating a commercial motor vehicle for a period of sixty days;

(B) For a second conviction of any combination of offenses in this subsection within a three-year period, the driver is disqualified from operating a commercial motor vehicle for one hundred twenty days; and

(C) For a third or subsequent conviction of any combination of offenses in this subsection within a three-year period, a driver is disqualified from operating a commercial motor vehicle for one year.

(4) Failing to have sufficient space to drive completely through the crossing without stopping in accordance with the provisions of section three, article twelve, chapter seventeen-c of West Virginia Code;

(A) For the first conviction, a driver is disqualified from operating a commercial motor vehicle for a period of sixty days;

(B) For a second conviction of any combination of offenses in this subsection within a three-year period, a driver is disqualified from operating a commercial motor vehicle for one hundred twenty days; and

(C) For a third or subsequent conviction of any combination of offenses in this subsection within a three-year period, a driver is disqualified from operating a commercial motor vehicle for one year.

(5) Failing to obey a traffic control device or the directions of an enforcement official at the crossing in accordance with the provisions of section one, article twelve, chapter seventeen-c of the West Virginia Code;

(A) For the first conviction, a driver is disqualified from operating a commercial motor vehicle for a period of sixty days;

(B) For a second conviction of any combination of offenses in this subsection within a three-year period, a driver is disqualified from operating a commercial motor vehicle for one hundred twenty days; and

(C) For a third or subsequent conviction of any combination of offenses in this subsection within a three-year period, a driver is disqualified from operating a commercial motor vehicle for one year.

(6) Failing to negotiate a crossing because of insufficient undercarriage clearance in accordance with the provisions of section three, article twelve, chapter seventeen-c of West Virginia Code.

(A) For the first conviction, a driver is disqualified from operating a commercial motor vehicle for a period of sixty days;

(B) For a second conviction of any combination of offenses in this subsection within a three-year period, a driver is disqualified from operating a commercial motor vehicle for one hundred twenty days; and

(C) For a third or subsequent conviction of any combination of offenses in this subsection within a three-year period, a driver is disqualified from operating a commercial motor vehicle for one year.

(e) Any person who is convicted of violating an out-of-service order while operating a commercial motor vehicle is disqualified for the following periods of time:

(1) If convicted of violating a driver or vehicle out-of- service order while transporting nonhazardous materials;

(A) For the first conviction of violating an out-of-service order while operating a commercial motor vehicle, a driver is disqualified from operating a commercial motor vehicle for one hundred eighty days.

(B) For a second conviction in a separate incident within a ten-year period for violating an out of service order while operating a commercial motor vehicle, a driver is disqualified from operating a commercial motor vehicle for two years.

(C) For a third or subsequent conviction in a separate incident within a ten-year period for violating an out-of-service order while operating a commercial motor vehicle, a driver is disqualified from operating a commercial motor vehicle for three years.

(2) If convicted of violating a driver or vehicle out-of- service order while transporting hazardous materials required to be placarded under 49 C.F.R. Part §172, Subpart F (2004) or while operating a vehicle designed to transport sixteen or more passengers including the driver;

(A) For the first conviction of violating an out of service order while operating a commercial motor vehicle, a driver is disqualified from operating a commercial motor vehicle for one hundred eighty days.

(B) For a second conviction in a separate incident within a ten-year period for violating an out-of-service order while operating a commercial motor vehicle, a driver is disqualified from operating a commercial motor vehicle for three years.

(C) For a third or subsequent conviction in a separate incident within a ten-year period for violating an out-of-service order while operating a commercial motor vehicle, a driver is disqualified from operating a commercial motor vehicle for three years.

(f) After disqualifying, suspending, revoking or canceling a commercial driver's license, the division shall update its records to reflect that action within ten days.

(g) In accordance with the provisions of 49 U.S.C. §313119(a)(19)(2004), and 49 C.F.R §384.226 (2004), notwithstanding the provisions of section twenty-five, article eleven, chapter sixty-one of the West Virginia Code, no record of conviction, revocation, suspension or disqualification related to any type of motor vehicle traffic control offense, other than a parking violation, of a commercial driver's license holder or a person operating a commercial motor vehicle may be masked, expunged, deferred or be subject to any diversion program.

(h) Notwithstanding any provision in this code to the contrary, the division may not issue any temporary driving permit, work-only driving permit or hardship license or permit that authorizes a person to operate a commercial motor vehicle when his or her privilege to operate any motor vehicle has been revoked, suspended, disqualified or otherwise canceled for any reason.

(i) In accordance with the provisions of 49 C.F.R. §391.15(b), a driver is disqualified from operating a commercial motor vehicle for the duration of any suspension, revocation or cancellation of his or her driver's license or privilege to operate a motor vehicle by this state or by any other state or jurisdiction until the driver complies with the terms and conditions for reinstatement set by this state or by another state or jurisdiction.

(j) In accordance with the provisions of 49 C.F.R. 353.52 (2006), the division shall immediately disqualify a driver's privilege to operate a commercial motor vehicle upon a notice from the Assistant Administrator of the Federal Motor Carrier Safety Administration that the driver poses an imminent hazard. Any disqualification period imposed under the provisions of this subsection shall be served concurrently with any other period of disqualification if applicable.

(k) In accordance with the provisions of 49 C.F.R. 1572.11(a), the division shall immediately disqualify a driver's privilege to operate a commercial motor vehicle if the driver fails to surrender his or her driver's license with a hazardous material endorsement to the division upon proper notice by the division to the driver that the division received notice from the Department of Homeland Security Transportation Security Administration of an initial determination of threat assessment and immediate revocation that the driver does not meet the standards for security threat assessment provided in 49 C.F.R. 1572.5. The disqualification remains in effect until the driver either surrenders the driver's license to the division or provides the division with an affidavit attesting to the fact that the driver has lost or is otherwise unable to surrender the license.

(l) In accordance with 49 C.F.R §391.41, a driver is disqualified from operating a commercial motor vehicle if the driver is not physically qualified to operate a commercial motor vehicle or does not possess a valid medical certification status.

(m) In accordance with the provisions of 49 C.F.R. §383.73(g), the division shall disqualify a driver's privilege to operate a commercial motor vehicle if the division determines that the licensee has falsified any information or certifications required under the provisions of 49 C.F.R. 383 Subpart J or 49 C.F.R. §383.71a for sixty days in addition to any other penalty prescribed by this code.

SECTION TWO: This Ordinance shall be effective from and after its date of passage.

Passed First Reading: _____

Passed Second Reading: _____

Dave Blazer, Mayor

ATTEST:

Jane Criswell-Rickman, City Clerk

**AN ORDINANCE OF THE CITY OF GLEN DALE, WEST VIRGINIA,
PROHIBITING COMMERCIAL DRIVERS FROM TEXTING WHILE DRIVING**

SECTION ONE: The Council of the City of Glen Dale, hereby ordains

353.08 COMMERCIAL DRIVERS PROHIBITED FROM TEXTING:

(a) No commercial driver may engage in texting while driving a commercial motor vehicle.

(b) No motor carrier may allow or require its drivers to engage in texting while driving a commercial motor vehicle.

(c) For the purposes of this section only, and unless a more restrictive prohibition is prescribed in this code, driving means operating a commercial motor vehicle with the motor running, including while temporarily stationed because of traffic, a traffic control device or other momentary delays. Driving does not include operating a commercial motor vehicle with or without the motor running when the driver moved the vehicle to the side of or off a highway, as defined in 49 CFR 390.5, and halted in a location where the vehicle can safely remain stationary.

SECTION TWO: This Ordinance shall be effective from and after its date of passage.

Passed First Reading: _____

Passed Second Reading: _____

Dave Blazer, Mayor

ATTEST:

Jane Criswell-Rickman, City Clerk

353.99 PENALTY.

Unless another penalty is provided in this article, whoever violates any provision of this article shall be fined not less than one hundred dollars (\$100.00) nor more than one thousand dollars (\$1,000), or imprisoned for not more than thirty days, or both except that for the second violation of Section 353.04, the offender shall be fined not less than five hundred dollars (\$500.00) nor more than two thousand dollars (\$2,000) or imprisoned not more than thirty days, or both. For the third or any subsequent conviction for violation of Section 353.04, the offender shall be fined not less than one thousand dollars (\$1,000) nor more than two thousand five hundred dollars (\$2,500), or imprisoned for not more than thirty days, or both.
(WVaC 17E-1-25)

ARTICLE 355
Motorized Recreational Apparatus

- | | | | |
|---------------|---------------------|---------------|--------------------|
| 355.01 | Definition. | 355.04 | Disclaimer. |
| 355.02 | Prohibition. | 355.99 | Penalty. |
| 355.03 | Exceptions. | | |

CROSS REFERENCES

State law provisions - see W. Va. Code Art. 17F-1

355.01 DEFINITION.

For the purpose of this article, "motorized recreational apparatus" shall include but not be limited to the following: all terrain vehicles (ATV) as defined by West Virginia Code §17A-1-1(ii); go-carts; golf cart; unregistered off road motorized dirt bike, whether two or three wheeled; snowmobile as defined by West Virginia Code §17A-1-1(mm); or, given the City's terrain and climate, any other such motorized apparatus which would appear to be used for the principal purpose of recreation and not for the general transportation of persons or goods. (Ord. 2-9-04.)

355.02 PROHIBITION.

No person shall operate, ride upon or use any motorized recreational apparatus for transportation or recreational purposes, within or upon parks, recreational areas, sidewalks, or walking trails which are publicly owned, leased or controlled, within the corporate limits of the City.

No person shall knowingly permit another person to operate, ride upon or use any motorized recreational apparatus for transportation or recreational purposes, within or upon parks, recreational areas, sidewalks, or walking trails which are publicly owned, leased or controlled, within the corporate limits of the City.

A parent, custodian or guardian or a minor commits an offense hereunder if said parent, custodian or guardian knowingly permits or by insufficient control allows said minor to operate, ride upon or use any motorized recreational apparatus for transportation or recreational purposes, within or upon parks, recreational areas, sidewalks, or walking trails which are publicly owned, leased or controlled, within the corporate limits of the City. The term "knowingly" includes knowledge that the parent, custodian or guardian should reasonably be expected to have concerning the whereabouts of said minor in his or her custody. This requirement is intended to hold a neglectful or careless parent, custodian or guardian up to a reasonable community standard of parental responsibility through an objective test. It shall, therefore be no defense that the parent or guardian was completely indifferent to the activities or conduct of such minor. (Ord. 2-9-04.)

355.03 EXCEPTIONS.

Notwithstanding any other provision of this article, it shall not be an offense for any person to use, ride or operate a motorized recreational apparatus within the corporate limits of the City as follows:

- (a) Upon a designated parade route, when such person or persons are duly registered and recognized participants in parade which has been duly permitted by the City;
 - (b) Upon private property;
 - (c) Upon property otherwise restricted as to such use, when such person or persons are participants in a duly organized exhibition or competition which has been duly permitted by the City;
 - (d) In a natural disaster; emergency; or in a situation requiring immediate action so as to prevent death or serious injury or property damage;
 - (e) For handicapped individuals to use motorized self-propelled vehicles of conveyance within the City; and
 - (f) All terrain vehicles which have snow plows affixed to them for snow removal in the City immediately after a snow fall of significant accumulation (more than two inches).
- (Ord. 2-9-04.)

355.04 DISCLAIMER.

Nothing contained herein is intended to nor shall be construed so as to create or form the basis of any civil or administrative liability whatsoever on the part of the City, or any of its officers, agents or insurers, for any injury or damage sustained by any person whomsoever as a consequence of any action or inaction on the part of the City as related in any matter to the enforcement or nonenforcement of the provisions of this article.

(Ord. 2-9-04.)

355.99 PENALTY.

(a) Any violation of the prohibitions contained in this article shall constitute the commission of a misdemeanor offense, and the Police Department for the City, or any other law enforcement officer of any other policing agency exercising proper jurisdiction within the corporate limits of the City, is hereby authorized and empowered to issue a citation and to charge any person who violates the prohibitions contained in this article, jurisdiction thereof being in the Municipal Court for the City.

(b) A person convicted of violating the prohibitions contained in this article shall be punished as follows:

- (1) First offense conviction: Any person convicted of a first offense shall be fined not less than \$25.00, nor more than \$100.00 together with all applicable court costs;
 - (2) Second offense conviction: Any person convicted of a second offense shall be fined not less than \$50.00, nor more than \$200.00 together with all applicable court costs;
 - (3) Third offense conviction: Any person convicted of a third or subsequent offense shall be fined not less than \$100.00, nor more than \$500.00 together with all applicable court costs.
- (Ord. 2-9-04.)

CHAPTER SEVEN - Parking
Art. 361. Parking Generally.

ARTICLE 361
Parking Generally

- | | |
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| <p>361.01 Prohibition against parking on streets or highways.</p> <p>361.02 Police may remove illegally stopped vehicles.</p> <p>361.03 Prohibited stopping, standing or parking places.</p> <p>361.04 Vehicles parked on private property.</p> <p>361.05 Manner of angle and parallel parking.</p> <p>361.06 Accessible parking.</p> <p>361.07 Junked and abandoned vehicles.</p> <p>361.08 Parking for certain purposes prohibited.</p> <p>361.09 Truck loading zones.</p> <p>361.10 Bus stops and taxicab stands.</p> | <p>361.11 Parking in alleys and narrow streets; exceptions.</p> <p>361.12 Registered owner prima-facie liable for unlawful parking.</p> <p>361.13 Trucks, tractor trailers or equivalent vehicles prohibited from parking on City streets.</p> <p>361.14 "No Parking" space privileges; temporary no parking.</p> <p>361.15 Stopping, standing or parking vehicles for a continuous period of not more than 14 days.</p> <p>361.16 Sunday parking or parking upon express permission of the Mayor or Chief of Police.</p> <p>361.99 Penalty.</p> |
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CROSS REFERENCES

See sectional histories for similar State law
 Authority to regulate the standing or parking of vehicles - see W. Va. Code 17C-2-8(a)(1)
 Authority to regulate parallel and angle parking - see W. Va. Code 17C-13-4
 Impounding of abandoned vehicles - see TRAF. 303.07
 Duty to stop engine, set brake on grade and remove key - see TRAF. 349.01

361.01 PROHIBITION AGAINST PARKING ON STREETS OR HIGHWAYS.

(a) Upon any street or highway outside of a business or residence district no person shall stop, park or leave standing any vehicle, whether attended or unattended, upon the paved or main-traveled part of the street or highway when it is practicable to stop, park or so leave such vehicle off such part of the street or highway, but in every event an unobstructed width of the street or highway opposite a standing vehicle shall be left for the free passage of other vehicles and a clear view of such stopped vehicles shall be available from a distance of 200 feet in each direction upon such highway or street.

(b) This section shall not apply to the driver of any vehicle which is disabled while on the paved or main-traveled portion of a street or highway in such a manner and to such extent that it is impossible to avoid stopping and temporarily leaving such disabled vehicle in such position. (WVaC 17C-13-1)

361.02 POLICE MAY REMOVE ILLEGALLY STOPPED VEHICLES.

(a) Whenever any police officer finds a vehicle standing upon a street or highway in violation of Section 361.01, such officer is hereby authorized to move such vehicle or require the driver or other person in charge of the vehicle to move the same, to a position off the paved or main-traveled part of such street or highway.

(b) Whenever any police officer finds a vehicle unattended upon any bridge or causeway or in any tunnel where such vehicle constitutes an obstruction to traffic, such officer is hereby authorized to provide for the removal of such vehicle to the nearest garage or other place of safety. (WVaC 17C-13-2)

361.03 PROHIBITED STOPPING, STANDING OR PARKING PLACES.

(a) No person shall stop, stand or park a vehicle except when necessary to avoid conflict with other traffic or in compliance with law or the directions of a police officer or traffic control device, in any of the following places:

- (1) On a sidewalk or curb;
- (2) In front of a public or private driveway;
- (3) Within an intersection;
- (4) Within fifteen feet of a fire hydrant;
- (5) In a properly designated fire lane;
- (6) On a crosswalk;
- (7) Within twenty feet of a crosswalk at an intersection;
- (8) Within thirty feet upon the approach to any flashing beacon, stop sign or traffic control signal located at the side of a roadway;
- (9) Between a safety zone and the adjacent curb or within thirty feet of points on the curb immediately opposite the ends of a safety zone, unless a different length is indicated by signs or markings;
- (10) Within fifty feet of the nearest rail of a railroad crossing;

- (11) Within twenty feet of the driveway entrance to any fire station and on the side of a street opposite the entrance to any fire station within seventy-five feet of such entrance (when properly signposted);
- (12) Alongside or opposite any street excavation or obstruction when stopping, standing or parking would obstruct traffic;
- (13) On the roadway side of any vehicle stopped or parked at the edge or curb of a street;
- (14) Upon any bridge or other elevated structure upon a street or highway or within a street or highway tunnel;
- (15) At any place where signs prohibit stopping, standing or parking, or where the curbing or street is painted yellow or red, or at any place in excess of the maximum time limited by signs;
- (16) Within twenty feet of any mail receptacle served regularly by a carrier using a motor vehicle for daily deliveries, if such parking interferes with or causes delay in the carrier's schedule;
- (17) Upon any controlled-access highway;
- (18) At any place on any street or highway where the safety and convenience of the traveling public is thereby endangered;
- (19) Over or across any lines or marks established by the Municipality to indicate parking spaces;
- (20) In front of a wheelchair accessible ramp or curb cut which is part of a sidewalk designed for use by the general public when the ramp or curb cut is properly marked with blue paint;
- (21) At any place where official signs permit parking by permit only, if such vehicle does not have a proper permit for such parking.

(b) No person shall move a vehicle not lawfully under his control into any such prohibited area or away from a curb such distance as is unlawful.
(WVaC 17C-13-3)

361.04 VEHICLES PARKED ON PRIVATE PROPERTY.

No driver of a vehicle shall stop, park or leave standing unattended any vehicle on a private road or driveway or on private property without having express or implied permission from the owner, tenant or lessee of such land. The owner, tenant or lessee of such private road or driveway or private property may move, or have moved, any vehicle stopped, parked or left standing unattended on his or her private road, driveway or private property as above prohibited without any liability for the cost of moving any vehicle, nor shall he or she be liable to the owner of the vehicle for any damage done to such vehicle in moving it, unless the owner, tenant or lessee of such private road or driveway or private property was negligent in removing or authorizing the removal of the vehicle. The owner of such vehicle shall be responsible to the persons removing such vehicle for paying all removal costs. Any person who removes any vehicle under the provisions of this section shall notify the State Police of such action, and, in addition notify the Police Department.
(WVaC 17C-14-13)

361.05 MANNER OF ANGLE AND PARALLEL PARKING.

(a) Every vehicle stopped or parked upon a roadway where there is an adjacent curb shall be stopped or parked with the curb-side wheels of such vehicle parallel with and not more than eighteen inches from the curb, unless it is impossible to approach so close to the curb; in such case the stop shall be as close to the curb as possible and only for the time necessary to discharge and receive passengers or to load or unload merchandise.

(b) This subsection does not apply to streets or parts thereof where angle parking is lawfully permitted. However, no angle parking shall be permitted on a State or Federal-aid route unless approved by the State Commissioner of Highways.

(c) Upon streets where angle parking is permitted, no person shall stop, stand or park a vehicle other than at the angle to the curb or edge of the roadway as is indicated by appropriate signs or marks.

(d) No vehicle shall be stopped or parked on a road or street with the vehicle facing in a direction other than the direction of travel on that side of the road or street.

361.06 ACCESSIBLE PARKING.

(a) As used in this section, the following terms have the meanings ascribed to them in this subsection:

- (1) A person or applicant with a "mobility impairment" means a person who is a citizen of West Virginia and as determined by a physician, allopath or osteopath chiropractor, advanced nurse practitioner or physician's assistant licensed to practice in West Virginia:
 - A. Cannot walk two hundred feet without stopping to rest;
 - B. Cannot walk without the use of or assistance from a brace, cane, crutch, prosthetic device, wheelchair, other assistive device or another person;
 - C. Is restricted by lung disease to such an extent that the person's force (respiratory) expiratory volume for one second, when measured by spirometry, is less than one liter or the arterial oxygen tension is less than sixty mm/hg on room air at rest;
 - D. Uses portable oxygen;
 - E. Has a cardiac condition to such an extent that the person's functional limitations are classified in severity as Class III or Class IV according to standards established by the American heart association; or
 - F. Is severely limited in his or her ability to walk because of an arthritic, neurological, or other orthopedic physical condition.
- (2) "Special registration plate" means a registration plate that displays the international symbol of access, as adopted by the Rehabilitation International Organization in nineteen hundred sixty-nine at its Eleventh World Congress on Rehabilitation of the Disabled, in a color that contrasts with the background, in letters and numbers the same size as those on the plate, and which may be used in lieu of a regular registration plate;

- (3) “Removable windshield placard” (permanent or temporary) means a two-sided, hanger style placard measuring three inches by nine and one half inches, with all of the following on each side:
- A. The international symbol of access, measuring at least three inches in height, centered on the placard, in white on a blue background for permanent designations and in white on a red background for temporary designations;
 - B. An identification number measuring one inch in height;
 - C. An expiration date in numbers measuring one inch in height; and
 - D. The seal or other identifying symbol of the issuing authority.
- (4) “Public entity” means state or local government or any department, agency, special purpose district or other instrumentality of a state or local government.
- (5) “Public facility” means all or any part of any buildings, structures, sites, complexes, roads, parking lots or other real or personal property, including the site where the facility is located.
- (6) “Place(s) of public accommodation” means a facility or facilities operated by a private entity whose operations affect commerce and fall within at least one of the following categories:
- A. Inns, hotels, motels and other places of lodging;
 - B. Restaurants, bars or other establishments serving food or drink;
 - C. Motion picture houses, theaters, concert halls, stadiums or other places of exhibition or entertainment;
 - D. Auditoriums, convention centers, lecture halls or other places of public gatherings;
 - E. Bakeries, grocery stores, clothing stores, hardware stores, shopping centers or other sales or rental establishments;
 - F. Laundromats, dry cleaners, banks, barber and beauty shops, travel agencies, shoe repair shops, funeral parlors, gas or service stations, offices of accountants and attorneys, pharmacies, insurance offices, offices of professional health care providers, hospitals or other service establishments;
 - G. Terminals, depots or other stations used for public transportation;
 - H. Museums, libraries, galleries or other places of public display or collection;
 - I. Parks, zoos, amusement parks or other places of recreation;
 - J. Public or private nursery, elementary, secondary, undergraduate or post-graduate schools or other places of learning and day care centers, senior citizen centers, homeless shelters, food banks, adoption agencies or other social service establishments; and
 - K. Gymnasiums, health spas, bowling alleys, golf courses or other places of exercise or recreation.
- (7) “Commercial facility” means a facility whose operations affect commerce and which are intended for nonresidential use by a private entity.
- (8) “Accessible parking” formerly known as “handicapped parking” is the present phrase consistent with language within the American with Disabilities Act (ADA).
- (9) “Parking enforcement personnel” includes any law enforcement officer as defined by West Virginia Code 30-29-1, and private security guards, parking personnel and other personnel authorized by a city, county or the state to issue parking citations.

(b) An accessible parking space should comply with the provisions of the Americans with Disabilities Act accessibility guidelines, contained in 28 C.F.R. 36, Appendix A, Section 4.6. In particular, the parking space should be a minimum of eight feet wide with an adjacent eight-foot access aisle for vans having side mounted hydraulic lifts or ramps or a five-foot access aisle for standard vehicles. Access aisles should be marked using diagonal two- to four-inch-wide stripes spaced every twelve or twenty-four inches apart along with the words "no parking" in painted letters which are at least twelve inches in height. All accessible parking spaces should have a signpost in front or adjacent to the accessible parking space displaying the international symbol of access sign mounted at a minimum of eight feet above the pavement or sidewalk and the top of the sign. Lines or markings on the pavement or curbs for parking spaces and access aisles may be in any color, although blue is the generally accepted color for accessible parking.

(c) A vehicle from any other state, United States territory or foreign country displaying an officially issued special registration plate, placard or decal bearing the international symbol of access shall be recognized and accepted as meeting the requirements of this section, regardless of where the plate, placard or decal is mounted or displayed on the vehicle.

(d) Stopping, standing or parking places marked with the international symbol of access shall be designated in close proximity to all public entities including state, county and municipal buildings and facilities, places of public accommodation and commercial facilities. These parking places shall be reserved solely for persons with a mobility impairment at all times.

(e) Any person whose vehicle properly displays a valid, unexpired special registration plate or removable windshield placard may park the vehicle for unlimited periods of time in parking zones unrestricted as to length of parking time permitted: Provided, that this privilege does not mean that the vehicle may park in any zone where stopping, standing or parking is prohibited or which creates parking zones for special types of vehicles or which prohibits parking during heavy traffic periods during specified rush hours or where parking would clearly present a traffic hazard. To the extent any provision of any ordinance of any political subdivision of this State is contrary to the provisions of this section, the provisions of this section take precedence and apply.

The parking privileges provided for in this subsection apply only during those times when the vehicle is being used for the loading or unloading of a person with a mobility impairment. Any person who knowingly exercises, or attempts to exercise these privileges at a time when the vehicle is not being used for the loading or unloading of a person with a mobility impairment, upon first conviction thereof, in addition to any other penalty he or she may otherwise incur, shall be fined two hundred dollars (\$200.00); upon second conviction thereof, in addition to any other penalty, he or she may otherwise incur, shall be fined three hundred dollars (\$300.00); and upon third and subsequent convictions thereof, in addition to any other penalty he or she may otherwise incur, shall be fined five hundred dollars (\$500.00).

(f) Any person whose vehicle does not display a valid, special registration plate or removable windshield placard may not stop, stand or park a motor vehicle in an area designated, zoned or marked for accessible parking with signs or instructions displaying the international symbol of access, either by itself or with explanatory text. The signs may be mounted on a post or a wall in front of the accessible parking space and instructions may appear on the ground or pavement, but use of both methods is preferred. Accessible parking spaces for vans having an eight-foot adjacent access aisle should be designated as "van accessible" but may be used by any vehicle displaying a valid special registration plate or removable windshield placard.

Any person who violates the provisions of this subsection shall be fined two hundred dollars (\$200.00); upon second conviction thereof, in addition to any other penalty he or she may otherwise incur, shall be fined three hundred dollars (\$300.00); and upon third and subsequent convictions thereof, in addition to any other penalty he or she may otherwise incur, shall be fined five hundred dollars (\$500.00).

(g) All signs that designate areas as "accessible parking" or that display the international symbol of access shall also include the words "Up to \$500 fine".

(h) No person may stop, stand or park a motor vehicle in an area designated or marked off as an accessible aisle to a van-accessible parking space or regular accessible parking space. Any person, including a driver of a vehicle displaying a valid removable windshield placard or special registration plate, who violates the provisions of this subsection shall be fined two hundred dollars (\$200.00); upon second conviction thereof, in addition to any other penalty he or she may otherwise incur, shall be fined three hundred dollars (\$300.00); and upon third and subsequent convictions thereof, in addition to any other penalty he or she may otherwise incur, shall be fined five hundred dollars (\$500.00).

(i) Parking enforcement personnel who otherwise enforce parking violations may issue citations for violations of this section and shall reference the number on the vehicle's license plate, since the driver normally will not be present.

(j) Law-enforcement agencies may establish a program to use trained volunteers to collect information necessary to issue citations to persons who illegally park in designated accessible parking spaces. Any law-enforcement agency choosing to establish a program shall provide for workers' compensation and liability coverage. The volunteers shall photograph the illegally parked vehicle and complete a form, to be developed by supervising law-enforcement agencies, that includes the vehicle's license plate number, date, time and location of the illegally parked vehicle. The photographs must show the vehicle in the accessible space and a readable view of the license plate. Within the discretion of the supervising law-enforcement agency, the volunteers may issue citations or the volunteers may submit the photographs of the illegally parked vehicle and the form to the supervising law-enforcement agency, who may issue a citation, which includes the photographs and the form, to the owner of the illegally parked vehicle. Volunteers shall be trained on the requirements for citations for vehicles parked in marked, zoned or designated accessible parking areas by the supervising law-enforcement agency.

(k) The Municipality in enforcing this section shall retain all fines and associated late fees. These revenues shall be used first to fund the provisions of subsection (j) of this section, if adopted by the Municipality or otherwise shall go into the Municipality's General Revenue Fund. (WVaC 17C-13-6)

361.07 JUNKED AND ABANDONED VEHICLES.

(a) Definitions. For the purposes of this section, the following terms, phrases, words, and their derivations shall have the meaning given herein. When not inconsistent with the context, words used in the present tense include the future, words in the plural number include the singular number and words in the singular number include the plural number. The word "shall" is always mandatory and not merely directory.

- (1) "City" is the City of Glen Dale.
- (2) "Chief of Police" is the Chief of Police of the City of Glen Dale.
- (3) "Motor vehicle" is any vehicle which is self-propelled and designed to travel along the ground and shall include, but not be limited to automobiles, buses, motor-bikes, motorcycles, motorscooters, trucks, tractors, go-carts, golf carts, campers and trailers.
- (4) "Junked motor vehicle" is any motor vehicle which does not have lawfully affixed thereto both an unexpired license plate or plates and a current motor vehicle safety inspection certificate, and the condition of which is wrecked, dismantled, partially dismantled, inoperative, abandoned or discarded.
- (5) "Person" means any person, firm, partnership, association, corporation, company, or organization of any kind.
- (6) "Private property" means any real property within the City which is privately owned and which is not public property as defined in this section.
- (7) "Public property" means any street, highway, alley or other public right of way, which includes the entire width between the boundary lines of every way publicly maintained for the purpose of vehicular travel, and also means any other publicly owned property or facility.

(b) Storing, Parking or Leaving Dismantled Such Motor Vehicle Prohibited; and Declared Nuisance; Exceptions. No person shall park, store, leave, or permit the parking, storing or leaving of any motor vehicle of any kind which is in an abandoned, wrecked, dismantled, inoperative, rusted, junked or partially dismantled condition whether attended or not, upon any public or private property within the City for a period of time in excess of seventy-two (72) hours. The presence of an abandoned, wrecked, dismantled, inoperative, rusted, junked or partially dismantled vehicle or parts thereof, on private or public property is hereby declared a public nuisance which may be abated as such in accordance with the provisions of this section. This section shall not apply to any vehicle enclosed within a building on private property or to any vehicle held in connection with a business enterprise, lawfully licensed by the City and properly operated, or to any motor vehicle in operable condition specifically adopted or designated for operation on drag strips or raceways, or any vehicle retained by the owner for antique collection purposes.

(c) Notice to Remove. Whenever it comes to the attention of the Chief of Police that any nuisance as defined in subsection (b) hereof exists in the City of Glen Dale, a notice in writing shall be served upon the occupant of the land where the nuisance exists, or in case there is no such occupant, then upon the owner of the property or his agent, notifying them of the existence of the nuisance and requesting its removal in the time specified in this section, that is, within ten (10) days from and after receipt of said notice.

(d) Responsibility for Removal. Upon proper notice and opportunity to be heard, the owner of the abandoned, wrecked, dismantled or inoperative vehicle and the owner or occupant of the private property on which same is located, either one or all of them, shall be responsible for its removal. In the event of removal and disposition by the City, the owner, or occupant of the private property where same is located, shall be liable for expenses incurred.

(e) Notice Procedure. The Chief of Police of the City shall give notice of removal to the owner or occupant of the private property where it is located, at least ten (10) days before the time of compliance. It shall constitute sufficient notice, when a copy of same is posted in a conspicuous place upon the private property on which the vehicle is located and duplicate copies are sent by certified mail, return receipt requested, to the owner or occupant of the private property at his last known address.

(f) Content of Notice. The notice shall contain the request for removal within the time specified in this section, and the notice shall advise that upon failure to comply with the notice to remove, the City or its designee shall undertake such removal with the cost of removal to be levied against the owner or occupant of the property. The notice shall further advise such recipient that a hearing can be requested by said recipient before the Mayor or his designee within the ten (10) day period of compliance.

(g) Request for Hearing. The persons to whom the notices are directed, or their duly authorized agents may file a written request for a hearing before the Mayor or his designee within the ten (10) day period of compliance prescribed herein for the purpose of defending the charges by the City.

(h) Procedure for Hearing. The hearing shall be held as soon as practicable after the filing of the request and the persons to whom the notices are directed shall be advised of the time and place of said hearing at least five (5) days in advance thereof. At any such hearing the City and the persons to whom the notices have been directed may introduce such witnesses and evidence as either party deems necessary.

(i) Removal of Motor Vehicle from Property. If the violation prescribed in the notice has not been remedied within the ten (10) day period of compliance, or in the event that a notice requesting a hearing is timely filed, a hearing is had, and the existence of the violation is affirmed by the Mayor or his designee, the Chief of Police or his designee shall have the right to take possession of the junked motor vehicle and remove it from the premises. It shall be unlawful for any person to interfere with, hinder, or refuse to allow such person or persons to enter upon private property for the purpose of removing a vehicle under the provisions of this section.

(j) Notice of Removal. Within forty-eight (48) hours of the removal of such vehicle, the Chief of Police shall give notice to the registered owner of the vehicle, if known, and also to the owner or occupant of the private property from which the vehicle was removed, that said vehicle, or vehicles, have been impounded and stored for violation of this section. The notice shall give the location of where the vehicle or vehicles, are stored, and the costs incurred by the City for removal.

(k) Disposition of Vehicles. Upon removing a vehicle under the provisions of subsection (i) hereof, the City shall after ten (10) days cause notice of public sale of said vehicle by publication of the sale, the notice to be published once in a newspaper of general circulation in the City of Glen Dale, not less than twenty (20) days before the date of the proposed sale. The notice of sale shall state:

- (1) The sale is of abandoned property in the possession of the City.
- (2) A description of the vehicle, including make, model, license number and any other information which will accurately identify the vehicle.
- (3) The terms of the sale.
- (4) The date, time and place of the sale.

(l) Public Sale. The vehicle shall be sold to the highest and best bidder. At the time of payment of the purchase price, the Chief of Police shall execute a certificate of sale in duplicate, the original of which to be given to the purchaser, and the copy thereof to be filed with the Clerk of the City. Should the sale for any reason be invalid, the City's liability shall be limited to the return of the purchase price.

(m) Disposition of Unsold Vehicles. In the event such a sale is held, and any such vehicle is unsold, the said Chief of Police may dispose of said vehicle in any manner deemed appropriate to him including, but not limited to, demolition or sale for discard value, and any and all proceeds gained from such disposition shall be applied to the removal costs, and any preliminary sale advertising expenses, plus the actual cost per day for storage for such vehicle.

(n) Redemption of Impounded Vehicles. The owner of any vehicle seized under the provisions of this section may redeem such vehicle at any time after its removal, but prior to the sale or destruction thereof upon proof of ownership and payment to the City of Glen Dale of such sum as may be determined and fixed for the actual and reasonable expense of removal, and any preliminary sale advertising expenses, plus the actual cost per day for storage for each vehicle redeemed.

(o) Liability of Owner or Occupant. Upon the failure of the owner or occupant of property on which abandoned vehicles have been removed by the City to pay the unrecovered expenses incurred by the City in such removal, a lien shall be placed upon the property for the amount of such expenses.

(p) Exception for Auto Repair. The owner of any such motor vehicle may keep and maintain one such motor vehicle (which would otherwise be in violation of this section) on the property upon which he maintains his residence (and not upon the street, alley or other public right of way) for the purpose of repairing same, provided that the said motor vehicle owner complies with the following:

- (1) A permit for said exception for repair purposes is obtained from the City at a cost of five dollars (\$5.00).
- (2) The permit shall be valid for a period of forty-five (45) days, but may be renewed for successive periods of forty-five (45) days each upon application by said motor vehicle owner; but each such renewal shall only be granted if, in the opinion of the Police Chief, evidence exists that substantial repairs have been made to the motor vehicle in the preceding permit period;
- (3) The permit shall be prominently displayed in the windshield area of the motor vehicle at all times.
- (4) The motor vehicle shall be kept covered with a cloth, canvas or other such type of material at all times when the repairs are not actively being made on the motor vehicle;
- (5) In the event that residentially owned or occupied property is so owned or occupied by more than one person, no more than one permit shall be issued for the same forty-five (45) day period, it being the intent of this exception to permit only one motor vehicle to qualify for said exception--and thereby be kept and maintained on said property--during the same period of time.

(q) Penalty. Any person violating any provision of this section shall be subject to a fine of not more than two hundred dollars (\$200.00). Each act in violation of any of the provisions hereof shall be deemed a separate offense.
(1987 Code 15A-2-11)

361.08 PARKING FOR CERTAIN PURPOSES PROHIBITED.

No person shall park any vehicle upon any street within the Municipality for the principal purpose of:

- (a) Displaying such vehicle for sale.
- (b) Displaying advertising.
- (c) Washing, greasing or repairing such vehicle, except repairs made necessary by an emergency.
- (d) Relieving the crowded condition of any parking lot, used car lot, automobile sales lot, repair garage, automobile sales agency or used car sales agency.

361.09 TRUCK LOADING ZONES.

No person shall stop, stand or park a vehicle for any purpose or length of time other than for the expeditious unloading and delivering or pickup and loading of materials in any place marked as a truck loading zone during hours when the provisions applicable to such zones are in effect. In no case shall the stop for loading and unloading of materials exceed thirty minutes.

361.10 BUS STOPS AND TAXICAB STANDS.

(a) No person shall stop, stand or park a vehicle other than a bus in a bus stop, or other than a taxicab in a taxicab stand when any such stop or stand has been officially designated and appropriately posted, except that the driver of a passenger vehicle may temporarily stop therein for the purpose of and while actually engaged in loading or unloading passengers when such stopping does not interfere with any bus or taxicab waiting to enter or about to enter such zone, and then only for a period not to exceed three minutes, if such stopping is not prohibited therein by posted signs.

(b) The operator of a bus shall not stop, stand or park such vehicle upon any street at any place for the purpose of loading or unloading passengers or their baggage other than at a bus stop so designated and posted as such, except in case of an emergency.

(c) The operator of a bus shall enter a bus stop on a public street in such a manner that the bus when stopped to load or unload passengers or baggage shall be in a position with the right front wheel of such vehicle not further than eighteen inches from the curb and the bus approximately parallel to the curb so as not to unduly impede the movement of other vehicular traffic.

(d) The operator of a taxicab shall not stand or park such vehicle upon any street at any place other than in a taxicab stand so designated and posted as such. This provision shall not prevent the operator of a taxicab from temporarily stopping in accordance with other stopping or parking provisions at any place for the purpose of and while actually engaged in the expeditious loading or unloading of passengers.

361.11 PARKING IN ALLEYS AND NARROW STREETS; EXCEPTIONS.

No person shall stop, stand or park any vehicle upon a street, other than an alley, in such a manner or under such conditions as to leave available less than ten feet of the width of the roadway for free movement of vehicular traffic, except that a driver may stop temporarily during the actual loading or unloading of passengers or when directed to by a police officer or traffic control signal.

Except as otherwise provided by law, no person shall stop, stand or park a vehicle within an alley except while actually loading and unloading, and then only for a period not to exceed thirty minutes.

361.12 REGISTERED OWNER PRIMA-FACIE LIABLE FOR UNLAWFUL PARKING.

In any hearing on a charge of illegally parking a motor vehicle, testimony that a vehicle bearing a certain license plate was found unlawfully parked as prohibited by the provisions of this Traffic Code, and further testimony that the records of the Department of Motor Vehicles shows that the license plate was issued to the defendant, shall be prima-facie evidence that the vehicle which was unlawfully parked was so parked by the defendant. A certified copy of registration from the Department of Motor Vehicles shall be proof of such ownership.

361.13 TRUCKS, TRACTOR TRAILERS OR EQUIVALENT VEHICLES PROHIBITED FROM PARKING ON CITY STREETS.

It shall be illegal for any truck, road tractor, truck tractor, or tractor trailer combination or equivalent vehicle with a GVW (gross vehicle weight) of 25,000 lbs., or net vehicle weight of 10,000 lbs. or more to be parked on any street, road or alley within the City of Glen Dale at any time. Nothing in this paragraph should be construed as to narrow the effect of this prohibition herein to only the specified weight limit. Said weight limit is intended for the category of equivalent vehicles and not for specified truck types which are completely prohibited herein by name and description.

This section intends that all and any streets, roadways or alleys within the City limits of the City of Glen Dale be included in the meaning of this prohibition, except for Baltimore Avenue west from Marx Lane to 9th Street, and Baltimore Avenue east from South Park to 8th Street.

Exceptions to this prohibition are to be made for local deliveries, to-wit: Section 347.01.

This section will be strictly enforced in accordance with the now present parking enforcement laws within the City. Section 361.02 in regard to impounding vehicles is also applicable to this provision herein when the provisions of this section are violated.

(1987 Code 15D-1-1A)

361.14 "NO PARKING" SPACE PRIVILEGES; TEMPORARY NO PARKING.

(a) Parking privileges and spaces designated as "no parking" space may be granted upon consent of Council, and when so granted shall be definitely marked or the curb painted yellow.

(b) When any "no parking" space privilege is so granted and the space is so marked it shall be unlawful to park therein except in the exercise of the granted privilege.

(c) No person shall designate any "no parking" spaces or paint any curb yellow without the consent of Council.

(d) Parking upon the roads, streets and alleys may be prohibited temporarily by order of the Chief of Police for reasons of public safety or convenience, and the placing of official signs on any road, street, or alley shall be notice of such prohibition; and it shall be unlawful to fail to comply with the direction of such signs or to fail to move a vehicle before the time specified on such signs. (1987 Code 15D-1-7)

361.15 STOPPING, STANDING OR PARKING VEHICLES FOR A CONTINUOUS PERIOD OF NOT MORE THAN 14 DAYS.

No person shall stop, stand or park any vehicle upon any public street, highway or alley for a continuous period of more than 14 days. Nor shall the registered owner of any such vehicle, if he be other than the last known operator of said vehicle, permit or suffer to permit the continuous stopping, standing or parking of the vehicle for a period of more than 14 days.

(1987 Code 15D-1-15)

361.16 SUNDAY PARKING OR PARKING UPON EXPRESS PERMISSION OF THE MAYOR OR CHIEF OF POLICE.

Notwithstanding the provisions of Section 361.03(a), and specifically subsection (15), concerning a prohibition against parking where official signs prohibit stopping or parking, parking may be permitted upon any street, highway or public way on Sundays for religious worship, if the street, highway or public way is so posted or upon express permission of the Mayor or Chief of Police. (1987 Code 15D-1-16)

361.99 PENALTY.

(EDITOR'S NOTE: See Section 303.99 for general Traffic Code penalty.)

CHAPTER NINE - Pedestrians and Bicycles
 Art. 371. Pedestrians.
 Art. 373. Bicycles.

**ARTICLE 371
 Pedestrians**

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| 371.01 Compliance with traffic regulations. | 371.06 Walking along streets and highways; soliciting rides. |
| 371.02 Right of way in crosswalk. | 371.07 Persons working on streets and highways. |
| 371.03 Crossing roadway outside crosswalk. | 371.08 Protection of blind pedestrians. |
| 371.04 Drivers to exercise due care. | 371.09 Electric personal assistive mobility device. |
| 371.05 Moving upon right half of crosswalk. | 371.99 Penalty. |

CROSS REFERENCES

See sectional histories for similar State law
 Pedestrian defined - see TRAF. 301.21
 Pedestrians at traffic signal - see TRAF. 313.03
 Pedestrian control signal - see TRAF. 313.04

371.01 COMPLIANCE WITH TRAFFIC REGULATIONS.

Pedestrians shall be subject to traffic control signals at intersections as provided in Section 313.03, but at all other places pedestrians shall be accorded the privileges and shall be subject to the restrictions stated in this article.
 (WVaC 17C-10-1(a))

371.02 RIGHT OF WAY IN CROSSWALK.

(a) When traffic control signals are not in place or not in operation the driver of a vehicle shall yield the right of way, slowing down or stopping if need be to so yield, to a pedestrian crossing the roadway within a crosswalk when the pedestrian is upon the half of the roadway upon which the vehicle is traveling, or when the pedestrian is approaching so closely from the opposite half of the roadway as to be in danger, but no pedestrian shall suddenly leave a curb or other place of safety and walk or run into the path of a vehicle which is so close that it is impossible for the driver to yield. This provision shall not apply under the conditions stated in Section 371.03(b).

(b) Whenever any vehicle is stopped at a marked crosswalk or at any unmarked crosswalk at an intersection to permit a pedestrian to cross the roadway, the driver of any other vehicle approaching from the rear shall not overtake and pass such stopped vehicle.
(WVaC 17C-10-2)

371.03 CROSSING ROADWAY OUTSIDE CROSSWALK.

(a) Every pedestrian crossing a roadway at any point other than within a marked crosswalk or within an unmarked crosswalk at an intersection shall yield the right of way to all vehicles upon the roadway.

(b) Any pedestrian crossing a roadway at a point where a pedestrian tunnel or overhead pedestrian crossing has been provided shall yield the right of way to all vehicles upon the roadway.

(c) Between adjacent intersections at which traffic control signals are in operation pedestrians shall not cross at any place except in a marked crosswalk.
(WVaC 17C-10-3)

371.04 DRIVERS TO EXERCISE DUE CARE.

Notwithstanding any other provision of this article every driver of a vehicle shall exercise due care to avoid colliding with any pedestrian upon any roadway and shall give warning by sounding the horn when necessary and shall exercise proper precaution upon observing any child or any confused or incapacitated person upon a roadway.
(WVaC 17C-10-4)

371.05 MOVING UPON RIGHT HALF OF CROSSWALK.

Pedestrians shall move, whenever practicable, upon the right half of crosswalks.
(WVaC 17C-10-5)

371.06 WALKING ALONG STREETS AND HIGHWAYS; SOLICITING RIDES.

(a) Where sidewalks are provided, no pedestrian shall walk along and upon an adjacent roadway.

(b) Where sidewalks are not provided any pedestrian walking along and upon a street or highway shall when practicable walk only on the left side of the roadway or its shoulder facing traffic which may approach from the opposite direction.

(c) No person shall stand in a roadway for the purpose of soliciting a ride from the driver of any vehicle.
(WVaC 17C-10-6)

371.07 PERSONS WORKING ON STREETS AND HIGHWAYS.

The driver of a vehicle shall yield the right of way to persons engaged in maintenance or construction work on a street or highway whenever he is notified of their presence by an official traffic control device or flagman.

(WVaC 17C-10-8)

371.08 PROTECTION OF BLIND PEDESTRIANS.

The driver of a vehicle approaching a blind pedestrian who knows, or in the exercise of reasonable care should know, that such pedestrian is blind because such pedestrian is carrying a cane predominantly white or metallic in color with or without a red tip, or is using a guide dog or otherwise, shall exercise care commensurate with the situation to avoid injuring such pedestrian.

(WVaC 5-15-5)

371.09 ELECTRIC PERSONAL ASSISTIVE MOBILITY DEVICE.

(a) For purposes of this section, the definition of an "electric personal assistive mobility device" is the same definition as previously set forth in Section 303.081 and "operator" shall refer to the operator of an electric personal assistive mobility device.

(WVaC 17C-10A-1)

(b) An electric personal assistive mobility device shall be equipped with:

- (1) Front, rear and side reflectors;
- (2) A braking system that enables the operator to bring the device to a controlled stop; and
- (3) If operated at any time from one-half hour after sunset to one-half hour before sunrise, a lamp that emits a white light that sufficiently illuminates the area in front of the device.

(c) An operator of an electric personal assistive mobility device traveling on a sidewalk, roadway or bicycle path shall have the rights and duties of a pedestrian and shall exercise due care to avoid colliding with pedestrians. An operator shall yield the right of way to pedestrians.

(d) Except as provided in this section, no other provisions of the motor vehicle code shall apply to electric personal assistive mobility devices.

(WVaC 17C-10A-2)

371.99 PENALTY.

(EDITOR'S NOTE: See Section 303.99 for general Traffic Code penalty.)

ARTICLE 373
Bicycles

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| <p>373.01 Compliance; code application to bicycles.</p> <p>373.02 Obedience to traffic rules; exceptions.</p> <p>373.03 Riding upon seats; number of persons.</p> <p>373.04 Attaching bicycle or sled to vehicle.</p> <p>373.05 Riding on roadways and bicycle paths.</p> | <p>373.06 Carrying articles.</p> <p>373.07 Lights and reflector on bicycle; signal device; brakes.</p> <p>373.08 Reckless operation; control, course and speed.</p> <p>373.09 Bicycle helmets for children.</p> <p>373.10 Operation on sidewalks prohibited.</p> <p>373.99 Penalty.</p> |
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CROSS REFERENCES

See sectional histories for similar State law
 Authority to regulate bicycle operation - see W. Va.
 Code 17C-2-8(a)(8)
 Bicycle defined - see TRAF. 301.03
 Moped equipment and operation - see TRAF. 345.29

373.01 COMPLIANCE; CODE APPLICATION TO BICYCLES.

(a) No person shall do any act forbidden or fail to perform any act required in this article.

(b) The parent of any child and the guardian of any ward shall not authorize or knowingly permit any such child or ward to violate any of the provisions of this Traffic Code.

(c) These regulations applicable to bicycles shall apply whenever a bicycle is operated upon any street or highway or upon any path set aside for the exclusive use of bicycles subject to those exceptions stated herein.
 (WVaC 17C-11-1)

373.02 OBEDIENCE TO TRAFFIC RULES; EXCEPTIONS.

Every person riding a bicycle upon a roadway shall be granted all of the rights and shall be subject to all of the duties applicable to the driver of a vehicle by this Traffic Code, except as to special regulations in this article and except as to those provisions of this Traffic Code which by their nature can have no application.
 (WVaC 17C-11-2)

373.03 RIDING UPON SEATS; NUMBER OF PERSONS.

(a) A person propelling a bicycle shall not ride other than upon or astride a permanent and regular seat attached thereto.

(b) No bicycle shall be used to carry more persons at one time than the number for which it is designed and equipped.
(WVaC 17C-11-3)

373.04 ATTACHING BICYCLE OR SLED TO VEHICLE.

No person riding upon any bicycle, coaster, skateboard, roller skates, sled or toy vehicle shall attach the same or himself to any vehicle upon a roadway.
(WVaC 17C-11-4)

373.05 RIDING ON ROADWAYS AND BICYCLE PATHS.

(a) Every person operating a bicycle upon a roadway shall ride as near to the right side of the roadway as practicable, exercising due care when passing a standing vehicle or one proceeding in the same direction.

(b) Persons riding bicycles upon a roadway shall not ride more than two abreast except on paths or parts of roadways set aside for the exclusive use of bicycles.

(c) Whenever a usable path for bicycles has been provided adjacent to a roadway, bicycle riders shall use such path and shall not use the roadway.
(WVaC 17C-11-5)

373.06 CARRYING ARTICLES.

No person operating a bicycle shall carry any package, bundle or article which prevents the driver from keeping at least one hand upon the handlebars.
(WVaC 17C-11-6)

373.07 LIGHTS AND REFLECTOR ON BICYCLE; SIGNAL DEVICE; BRAKES.

(a) Every bicycle when in use at nighttime shall be equipped with a lamp on the front which shall emit a white light visible from a distance of at least 500 feet to the front and with a red reflector on the rear of a type approved by the Department of Motor Vehicles which shall be visible from all distances from fifty feet to 300 feet to the rear when directly in front of lawful upper beams of head lamps on a motor vehicle. A lamp emitting a red light visible from a distance of 500 feet to the rear may be used in addition to the red reflector.

(b) No person shall operate a bicycle unless it is equipped with a bell or other device capable of giving a signal audible for a distance of at least 100 feet, except that a bicycle shall not be equipped with nor shall any person use upon a bicycle any siren or whistle.

(c) Every bicycle shall be equipped with a brake which will enable the operator to make the braked wheels skid on dry, level, clean pavement.
(WVaC 17C-11-7)

373.08 RECKLESS OPERATION; CONTROL, COURSE AND SPEED.

No person shall operate a bicycle:

- (a) Without due regard for the safety and rights of pedestrians and drivers and occupants of all other vehicles, and so as to endanger the life, limb or property of any person while in the lawful use of the streets or sidewalks or any other public or private property;
- (b) Without exercising reasonable and ordinary control over such bicycle;
- (c) In a weaving or zigzag course unless such irregular course is necessary for safe operation in compliance with law;
- (d) Without both hands upon the handle grips except when necessary to give the required hand and arm signals, or as provided in Section 373.06;
- (e) At a speed greater than is reasonable and prudent under the conditions then existing.

373.09 BICYCLE HELMETS FOR CHILDREN.

(a) Definitions. As used in this section:

- (1) "Bicycle" means a human-powered vehicle with wheels designed to transport, by the action of pedaling, one or more persons seated on one or more saddle seats on its frame. Such term also includes a human-powered vehicle, and any attachment to such vehicle designed to transport by pedaling when the vehicle is used on a public roadway, public bicycle path or other public right-of-way, but does not include a tricycle.
- (2) "Tricycle" means a three-wheeled human-powered vehicle designed for use as a toy by a single child under the age of six years, the seat of which is no more than two feet from ground level.
- (3) "Public roadway" means a right of way under the jurisdiction and control of this State or the Municipality for use primarily by motor vehicles.
- (4) "Public bicycle path" means a right of way under the jurisdiction and control of this State or the Municipality for use primarily by bicycles and pedestrians.
- (5) "Other public right-of-way" means any right of way other than a public roadway or public bicycle path that is under the jurisdiction and control of this State or the Municipality and is designed for use and used by vehicular or pedestrian traffic.
- (6) "Protective bicycle helmet" means a piece of headgear which meets or exceeds the impact standards for protective bicycle helmets set by the American National Standards Institute (ANSI) or the Snell Memorial Foundation's standards for protective headgear or American Society for Testing and Materials (ASTM) for use in bicycling.
- (7) "Passenger" means any person who travels on a bicycle in any manner except as an operator.
- (8) "Operator" means a person who travels on a bicycle seated on a saddle seat from which that person is intended to and can pedal the bicycle.
(WVaC 17-11A-3)

(b) Requirements for Helmet Use.

- (1) It is unlawful for any person under fifteen years of age to operate or be a passenger on a bicycle or any attachment to a bicycle used on a public roadway, public bicycle path or other public right of way unless at all times when the person is so engaged he or she wears a protective bicycle helmet of good fit, fastened securely upon the head with the straps of the helmet.
- (2) It is unlawful for any parent or legal guardian of a person under fifteen years of age to knowingly permit such person to operate or be a passenger on a bicycle or on any attachment to a bicycle used on a public roadway, public bicycle path or other public right of way unless at all times when the person is so engaged he or she wears a protective bicycle helmet of good fit, fastened securely upon the head with the straps of the helmet.
(WVaC 17C-11A-4)

(c) Sale of Bicycle Helmets. Any helmet sold or offered for sale for use by operators and passengers of bicycles shall be conspicuously labeled in accordance with the standard described in subsection (a)(6) hereof, which shall constitute the manufacturer's certification that the helmet conforms to the applicable safety standards. (WVaC 17C-11A-5)

(d) Civil Actions. A violation of subsection (b) hereof is not admissible as evidence of negligence or contributory negligence or comparative negligence in any civil action or proceeding for damages, and shall not be admissible in mitigation of damages.
(WVaC 17C-11A-6)

373.10 OPERATION ON SIDEWALKS PROHIBITED.

No person shall operate a bicycle on any sidewalk within the City.
(1987 Code 15E-2-9)

373.99 PENALTY.

(EDITOR'S NOTE: See Section 303.99 for general Traffic Code penalty.)

- (a) Notwithstanding the provisions of Section 303.99, any parent or legal guardian violating any requirement set forth in Section 373.09(b) shall be fined ten dollars (\$10.00) or be required to perform two hours in community service related to a child injury prevention program which includes injury prevention education or both fined and required to perform such community service. Notwithstanding the provisions of West Virginia Code 8-11-1, no court costs may be assessed to any person violating the requirements of Section 373.09(b).
- (b) In the case of a first violation of Section 373.09(b), the court may waive the fine upon receipt of satisfactory proof that the person has a helmet or within a reasonable time from the date of the violation, purchased or otherwise obtained, a protective bicycle helmet.
- (c) It is an absolute defense to a charge for a violation of Section 373.09 that a parent or legal guardian is unable to pay for the protective bicycle helmet. Inability to pay may be demonstrated by the filing of a financial affidavit in accordance with the provisions of West Virginia Code 59-2-1(c). Any person who demonstrates inability to pay shall be referred to the Governor's highway safety program for assistance in obtaining the appropriate helmet or helmets.
(WVaC 17C-11A-7)