

Chapter 5 Offenses – Miscellaneous

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Article 1. Crimes against the person.

Section 5-1-1. Breach of peace and related offenses.

- (a) It shall be unlawful for any owner, operator or employee of any hotel, restaurant, tavern or other place frequented by the public to permit therein any disturbance of the public peace, morals or good order.
- (b) It shall be unlawful for any person to commit any tumultuous conduct, noise, disorder or personal abuse of any person to the disturbance, or tending to the disturbance, of the public peace, morals or good order.

Section 5-1-2. Assault; battery; penalties.

- (a) *Assault.* – If any person unlawfully attempts to commit a violent injury to the person of another or unlawfully commits an act which places another in reasonable apprehension of immediately receiving a violent injury, he shall be guilty of a misdemeanor and, upon conviction, shall be confined in the regional jail for not more than thirty days, or fined not more than one hundred dollars, or both.
- (b) *Battery.* – If any person unlawfully and intentionally makes physical contact of an insulting or provoking nature with the person of another or unlawfully and intentionally causes physical harm to another person, he shall be guilty of a

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misdemeanor and, upon conviction, shall be confined in the regional jail for not more than thirty days, or fined not more than five hundred dollars, or both.

For State Law basis of this section, see W.V. Code, §61-2-9.

Section 5-1-3. Stalking; harassment; penalties; definitions.

- (a) Any person who willfully and repeatedly follows and harasses a person with whom he or she has or in the past has had or with whom he or she seeks to establish a personal or social relationship, whether or not the intention is reciprocated, a member of that person’s immediate family, his or her current social companion, his or her professional counselor or attorney is guilty of a misdemeanor and, upon conviction thereof, shall be incarcerated in the regional jail for not more than thirty days or fined not more than one thousand dollars, or both.
- (b) Any person who willfully and repeatedly follows and makes a credible threat against a person with whom he or she has or in the past has had or with whom he or she seeks to establish a personal or social relationship, whether or not the intention is reciprocated, or against a member of that person’s immediate family, his or her current social companion, his or her professional counselor or attorney with the intent to place or placing him or her in reasonable apprehension that he or she or a member of his or her immediate family will suffer death, sexual assault, kidnapping, bodily injury or battery is guilty of a misdemeanor and, upon conviction thereof, shall be incarcerated in the regional jail for not more than thirty days or fined not more than one thousand dollars, or both.
- (c) Any person who repeatedly harasses or repeatedly makes credible threats against a person with whom he or she has, or in the past has had or with whom he or she seeks to establish a personal or social relationship, whether or not the intention is reciprocated, or against a member of that person’s immediate family, his or her current social companion, his or her professional counselor or attorney, is guilty of a misdemeanor and, upon conviction thereof, shall be incarcerated in the regional jail for not more than thirty days or fined not more than one thousand dollars, or both.
- (d) For the purposes of this section:
 - (1) “Harasses” means willful conduct directed at a specific person or persons which would cause a reasonable person mental injury or emotional distress;
 - (2) “Credible threat” means a threat of bodily injury made with the apparent ability to carry out the threat and with the result that a reasonable person would believe that the threat could be carried out;

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- (3) “Bodily Injury” means substantial physical pain, illness or any impairment of physical condition; and
- (4) “Immediate family” means a spouse, parent, stepparent, mother-in-law, father-in-law, child, stepchild, sibling, or any person who regularly resides in the household or within the prior six months regularly resided in the household.

For State Law basis of this section, see WV Code §61-2-9a.

Section 5-1-4. Unlawful assault; battery and recidivism of battery; assault on police officers, conservation officers, probation officers, humane officers, emergency medical service personnel, firefighters, fire marshal, Division of Forestry employees and county or state correctional employees; penalties.

- (a) *Battery.* – Any person who unlawfully, knowingly and intentionally makes physical contact of an insulting or provoking nature with a police officer, probation officer, conservation officer, humane officer, emergency medical service personnel, firefighter, State Fire Marshal or employee, Division of Forestry employee, county correctional employee or state correctional employee, employee of an urban mass transportation system or Public Service Commission motor carrier inspector acting in his or her official capacity, or unlawfully and intentionally causes physical harm to a police officer, probation officer, conservation officer, humane officer, emergency medical service personnel, firefighter, State Fire Marshal or employee, Division of Forestry employee, county correctional employee, state correctional employee, employee of an urban mass transportation system or Public Service Commission motor carrier inspector acting in such capacity is guilty of a misdemeanor and, upon conviction thereof, shall be confined in the regional jail for not less than thirty days, fined the sum of five hundred dollars, or both.
- (b) *Assault.* – Any person who unlawfully attempts to commit a violent injury to the person of a police officer, probation officer, conservation officer, humane officer, emergency medical service personnel, firefighter, State Fire Marshal or employee, Division of Forestry employee, county correctional employee or state correctional employee, employee of an urban mass transportation system or Public Service Commission motor carrier inspector acting in his or her official capacity, or unlawfully commits an act which places a police officer, probation officer, conservation officer, humane officer, emergency medical service personnel, firefighter, State Fire Marshal or employee, Division of Forestry employee, county correctional employee or state correctional employee, employee of an urban mass transportation system or Public Service Commission motor carrier inspector acting in his or her official capacity in reasonable apprehension of immediately receiving a violent injury, is guilty of a misdemeanor and, upon conviction thereof, shall be confined in the regional jail for not less than twenty-four hours nor more than thirty days, fined not more than two hundred dollars, or both.

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- (c) For purposes of this section:
- (1) “Police Officer” means any person employed by the State Police, any person employed by the state to perform law-enforcement duties, any person employed by a political subdivision of this state who is responsible for the prevention or detection of crime and the enforcement of the penal, traffic or highway laws of this state or employed as a special police officer as defined in WV Code § 61-3-41.
 - (2) “Employee of urban mass transportation system” means any person employed by an urban mass transportation system as such is defined in WV Code § 8-27-3 or by a system that receives federal transit administration funding under 49 U. S. C. § 5307 or § 5311.

For State Law basis of this section, see WV Code § 61-2-10b.

Section 5-1-5. Assault, battery on school employees; penalties.

- (a) If any person commits an assault: (1) By unlawfully attempting to commit a violent injury to the person of a school employee while he or she is engaged in the performance of his or her duties, is commuting to or from his or her place of employment of if the motive for the assault is retaliation for action take by the employee to supervise or discipline one or more pupils pursuant to WV Code sections 18A-5-1 or 18A-5-1a; or (2) by unlawfully committing an act which places a school employee in reasonable apprehension of immediately receiving a violent injury while the employee is engaged in the performance of his or her duties, assault in retaliation for some action take by the employee or if the motive for the assault is retaliation for some action taken by the employee to supervise or discipline one or more pupils pursuant to WV Code sections 18A-5-1 or 18A-5-1a, he or she is guilty of a misdemeanor and, upon conviction thereof, shall be confined in the regional jail not less than five days nor more than thirty days and fined not less than fifty dollars nor more than one hundred dollars.
- (b) If any person commits a battery: (1) By unlawfully and intentionally making physical contact of an insulting or provoking nature with the person of a school employee while he or she is engaged in the performance of his or her duties, is commuting to or from his or her place of employment of if the motive for the battery is retaliation for action take by the employee to supervise or discipline one or more pupils pursuant to WV Code sections 18A-5-1 or 18A-5-1a; or (2) by unlawfully intentionally causing physical harm to a school employee while he or she is engaged in the performance of his or her duties, is commuting to or from his or her place of employment of if the motive for the battery is retaliation for some action taken by the employee to supervise or discipline one or more pupils pursuant to WV Code section 18A-5-1 or 18A-5-1a, he or she is guilty of a misdemeanor and, upon conviction thereof, shall be confined in the regional jail

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not less than ten days nor more than thirty days and fined not less than one hundred dollars nor more than five hundred dollars.

- (c) For the purposes of this section, “school employee” means a person employed by a county board of education whether employed on a regular full-time basis, an hourly basis or otherwise. For the purposes of this section, a “school employee” includes a student teacher.

For State Law basis of this section, see WV Code § 61-2-15.

Section 5-1-6. Assault, battery on athletic officials; penalties.

- (a) If any person commits an assault as defined in 5-1-2 of this article, to the person of an athletic official during the time the official is acting as an athletic official, the offender is guilty of a misdemeanor, and, upon conviction thereof, shall be fined not less than fifty dollars nor more than one hundred dollars, and imprisoned in the regional jail not less than twenty-four hours nor more than thirty days.
- (b) If any person commits a battery, as defined in 5-1-2 of this article, against an athletic official during the time the official is acting as an athletic official, the offender is guilty of a misdemeanor, and, upon conviction thereof, shall be fined not less than one hundred dollars nor more than five hundred dollars, and imprisoned in the regional jail not less than twenty-four hours nor more than thirty days.
- (c) For the purpose of this section “athletic official” means a person at a sports event who enforces the rules of that event, such as an umpire or referee, or a person who supervises the participants, such as a coach.

For State Law basis of this section, see WV Code §61-2-15a.

Section 5-1-7. Doors to be removed from abandoned refrigerators, freezers and other appliances; penalties.

No person shall abandon any refrigerator or food freezer appliance or other airtight appliance having a height or length greater than two feet without first removing all entry doors therefrom.

Any person violating the provisions of this section shall be guilty of a misdemeanor and, upon conviction thereof, shall be fined not more than two hundred dollars, or imprisoned in the county jail not more than thirty days, or both.

For State Law basis of this section, see WV Code §61-2-26.

Section 5-1-8. Domestic violence – Criminal acts.

- (a) *Domestic battery.* – Any person who unlawfully and intentionally makes physical contact of an insulting or provoking nature with his or her family or household

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member or unlawfully and intentionally causes physical harm to his or her family or household member, is guilty of a misdemeanor and, upon conviction thereof, shall be confined in the regional jail for not more than thirty days, or fined not more than five hundred dollars, or both.

- (b) *Domestic assault.* – Any person who unlawfully attempts to commit a violent injury against his or her family or household member or unlawfully commits an act which places his or her family or household member in reasonable apprehension of immediately receiving a violent injury, is guilty of a misdemeanor and, upon conviction thereof, shall be confined in the regional jail for not more than thirty days, or fined not more than one hundred dollars, or both.
- (c) As used in this section, “family or household member” means “family or household member” as defined in WV Code 48-27-204.
- (d) A person charged with a violation of this section may not also be charged with a violation of 5-1-2 of this article for the same act.
- (e) No law-enforcement officer may be subject to any civil or criminal action for false arrest or unlawful detention for effecting an arrest pursuant to this section or pursuant to WV Code 48-27-1002.

For State Law basis of this section, see WV Code §61-2-28.

Article 2. Crimes against property.

Section 5-2-1. Entry of building other than dwelling; entry of railroad, traction or motorcar, steamboat or other vessel; penalties.

If any person shall, at any time, break and enter, or shall enter without breaking, any automobile, motorcar or bus, with intent to commit a felony or any larceny, within the jurisdiction of this Municipality, he shall be guilty of a misdemeanor, and, upon conviction, shall be confined in the county jail not less than thirty days and be fined not exceeding one hundred dollars.

For State Law basis of this section, see WV Code §61-3-12.

Section 5-2-2. Petit larceny; penalties.

If a person commits simple larceny of goods or chattels of the value of less than one thousand dollars, such person is guilty of a misdemeanor, designated petit larceny, and, upon conviction thereof, shall be confined in jail for a term not to exceed thirty days or fined not to exceed two thousand five hundred dollars, or both, in the discretion of the court.

For State Law basis of this section, see WV Code §61-3-13.

Section 5-2-3. Obtaining money, property and services by false pretenses; disposing of property to defraud creditors; penalties.

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- (a) (1) If a person obtains from another by any false pretense, token or representation, with intent to defraud, any money, goods or other property which may be subject of larceny; or
- (2) If a person obtains on credit from another any money, goods or other property which may be the subject of larceny, by representing that there is money due him or her or to become due him or her, and assigns the claim for such money, in writing, to the person from whom he or she obtains such money, goods or other property, and afterwards collects the money due or to become due, without the consent of the assignee, and with the intent to defraud;
- (3) Such person is guilty of larceny. If the value of the money, goods or other property is less than one thousand dollars, such person is guilty of a misdemeanor, and, upon conviction thereof, shall be confined in the regional jail not more than thirty days or fined not more than two thousand five hundred dollars, or both.
- (b) (1) If a person remove any of his or her property out of any county with the intent to prevent the same from being levied upon by any execution; or
- (2) If a person secretes, assigns or conveys, or otherwise disposes of any of his or her property with the intent to defraud any creditor or to prevent the property from being made liable for payment or debts; or
- (3) If a person receives the property of another with the intent to defraud any creditor or to prevent the property from being made liable for the payment of debts;
- (4) The person is guilty of a misdemeanor, and, upon conviction thereof, shall be fined not more than two thousand five hundred dollars and be confined in jail not more than thirty days.
- (c) Theft of services includes the obtaining of a stop payment order on a check, draft or order for payment of money owed for services performed in good faith and in substantial compliance with a written or oral contract for services, with the fraudulent intent to permanently deprive the provider of such labor, services or other such thing of value of the payment represented by such check, draft or order. Notwithstanding the penalties set forth elsewhere in this section, any person, firm or corporation violating the provisions of this subsection is guilty of a misdemeanor, and, upon conviction thereof, shall be fined not more than two times the face value of the check, draft or order.
- (d) Prosecution for an offense under this section does not bar or otherwise affect adversely any right or liability to damages, forfeiture or other civil remedy arising from any or all elements of the criminal offense.

For State Law basis of this section, see WV Code §61-3-24.

Section 5-2-4. Possession of counterfeit credit card; penalties.

- (a) “Counterfeit credit card” means the following:
 - (1) Any credit card or a representation, depiction, facsimile, aspect or component thereof, that is counterfeit, fictitious, altered, forged, lost, stolen, incomplete or obtained in violation of this section, or as part of a scheme to defraud; or
 - (2) Any invoice, voucher, sales draft or other reflection or manifestation of such a card.
- (b) A person who knowingly receives, possesses, acquires, controls, or has custody of a counterfeit credit card is guilty of a misdemeanor, and, upon conviction thereof, shall be confined in jail not more than thirty days or fined not more than five hundred dollars, or both.

For State Law basis of this section, see WV Code §61-3-24a.

Section 5-2-5. Making, selling, possessing, transferring or advertising for sale a device or plans for a device designed to obtain or use telephone or telegraph service or facilities by false or fraudulent means; penalty.

It shall be unlawful for any person knowingly to make, sell, offer or advertise for sale, possess, or give or otherwise transfer to another any instrument, apparatus, equipment, or device or plans or instructions for making or assembling any instrument, apparatus, equipment, or device which has been designed, adapted, used, or employed with the intent or for the purpose of (1) obtaining telephone or telegraph service or the transmission of a message, signal or other communication by telephone or telegraph, or over telephone or telegraph facilities without the payment of charges therefore, or (2) concealing or assisting another to conceal from any supplier of telephone or telegraph service or from any person charged with the responsibility of enforcing this section, the existence or place of origin or of destination of any message, signal, or other communication by telephone or telegraph, or over telephone or telegraph facilities.

Any person who violates any provision of this section is guilty of a misdemeanor, and, upon conviction thereof, shall be punished by imprisonment in the regional jail not exceeding thirty days, or by fine not exceeding five hundred dollars, or by both such fine and imprisonment at the discretion of the court. Any such instrument, apparatus, equipment, or device or plans or instructions therefore, may be seized by court order or under the warrant of a municipal judge; and, upon the conviction of any person owning same or having any interest therein for a violation of any provision of this section, which conviction has become final, such instrument, apparatus, equipment, device, plans or instructions shall be destroyed as contraband by the chief of police of the municipality in which such person was convicted.

For State Law basis of this section, see WV Code §61-3-24b.

Section 5-2-6. Damage or destruction of railroad or public utility company property, or real or personal property used for producing, generating, transmitting, distributing, treating or collecting electricity, natural gas, water, wastewater, stormwater, telecommunications or cable service; penalties; restitution.

- (a) Any person who knowingly and willfully damages or destroys any real or personal property owned by a railroad company or public utility company, or any real or personal property used for producing, generating, transmitting, distributing, treating or collecting electricity, natural gas, water, wastewater, stormwater, telecommunications or cable service, is guilty of a misdemeanor and, upon conviction thereof, shall be fined not more than two thousand dollars, or confined in the regional jail not more than thirty days, or both.
- (b) Nothing in this section may be construed to limit or restrict the ability of an entity referred to in subsection (a) of this section or a property owner or other person who has been damaged or injured as a result of a violation of this section from seeking recovery for damages arising from violation of this section.

For State Law basis of this section, see WV Code §61-3-29.

Section 5-2-7. Removal, injury to or destruction of property; penalties.

If any person unlawfully, but not feloniously, takes and carries away, or destroys, injures or defaces any property, real or personal, of another, he or she is guilty of a misdemeanor and, upon conviction thereof, shall be fined not more than five hundred dollars, or confined in the regional jail not more than thirty days, or both.

For State Law basis of this section, see WV Code §61-3-30.

Section 5-2-8. Intentional damage to municipal personal property.

- (a) No person may, without proper authority, knowingly use, tamper with, render inoperative, destroy, damage, remove, deface, molest or otherwise intentionally interfere with any books, records, furniture, equipment, gear, apparatus, tools, meter, lock or other items of personal property belonging to, leased to or used by the municipality or any agency thereof.
- (b) No person shall, without proper authority, knowingly destroy, damage, deface, molest or otherwise interfere with or trespass upon, any real property belonging to, leased to or used by the municipality or any agency thereof.
- (c) Any person convicted of this section shall be guilty of a misdemeanor and upon conviction thereof, be fined not less than one dollar nor more than one thousand dollars, and confined in the regional jail for not more than thirty days or both. In addition to any fine or confinement imposed by this section, any person found guilty of violating the provisions of this article shall be ordered to pay restitution for the value of the personal property intentionally damaged or destroyed.

Section 5-2-9. Entry upon inclosed lands; penalty; liability for damages.

If any person shall, without the consent of the owner or occupier thereof, enter upon the inclosed lands of another and do any damage, or shall, without such consent, pull down in whole or in part, or injure, any fence of another, or without permission open and leave open the gate or drawbar of another, or enter upon the inclosed lands of another after being forbidden so to do, or enter thereon and curse, or insult, or annoy, the owner thereof or any person rightfully there, he shall be guilty of a misdemeanor, and, upon conviction, be fined not less than five nor more than one hundred dollars; and, in default of the payment of the fine, the offender may, in the discretion of the judge, be committed to jail for not less than five days. He shall, moreover, be liable to the party injured for the damages sustained by such injury; and it shall be no defense to any prosecution or suit under this section, that such fence was not a lawful fence.

For State Law basis of this section, see WV Code §61-3-33.

Section 5-2-10. Procuring gas, water or electricity, by device, with intent to defraud; penalty.

Every person who, with intent to injure or defraud, steal, procures, make or cause to be made, any pipe, tube, wire, or other conductor of gas, water or electric energy, and connects the same, or causes it to be connected, with any main, service pipe or other pipe for conducting or supplying gas, water, or any wires or other conductor of electric energy, in such manner as to supply gas, water or electric energy to any lamp, motor, burner, orifice, or any other device by or at which gas, water or electric energy is consumed, around or without passing through the meter provided for measuring and registering the quantity of gas, water or electric energy consumed, or in any other manner so as to evade payment therefore, and every person who, with like intent, injures or alters any gas, water or electric meter, or obstructs its action, shall be guilty of a misdemeanor, and, upon conviction thereof, shall be confined in the regional jail not exceeding thirty days, or fined not exceeding one thousand dollars, or both, in the discretion of the court.

In addition to any fine or imprisonment imposed by this article, any person found guilty of violating the provisions of this article shall be ordered to pay restitution for the value of the services consumed and the damage to any utility meter or property resulting from the violation.

For State Law basis of this section, see WV Code §61-3-44.

Section 5-2-11. Tampering with pipes, tubes, wires or electrical conductors; penalty.

Every person who, with intent to injure or defraud, connects, or causes to be connected, any pipe, tube, wire, electrical conductor or other instrument with any main, service pipe, or other pipe or conduit or flume for conducting water, or with any main, service pipe, or other pipe or conduit for conducting gas, or with any main, service pipe, or other pipe or conduit for conducting gas, or with any main, service wire or other electric conductor used for the purpose of conducting electric energy for light, heat or motive services, for the purpose of taking therefrom water, gas or electric energy, without the knowledge of the owner thereof and with intent to evade payment therefore, shall be guilty of a misdemeanor, and, upon conviction thereof, shall be confined in

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the regional jail not exceeding thirty days, or fined not exceeding one thousand dollars, or both, in the discretion of the court.

In addition to any fine or imprisonment imposed by this article, any person found guilty of violating the provisions of this article shall be ordered to pay restitution for the value of the services consumed and the damage to any utility meter or property resulting from the violation.

For State Law basis of this section, see WV Code §61-3-45.

Section 5-2-12. Offenses involving damage to shrubbery, flowers, trees and timber; limitation of section; penalties.

- (a) It is unlawful to break, cut, take or carry away, or in any manner to damage any of the shrubbery or flowers, including everything under the title of flora, whether wild or cultivated, growing within one hundred yards on either side of any public road in this municipality, without the permission in writing of the owner or tenant of the land upon which the shrubbery or flowers, including everything under the title of flora, are growing.
- (b) It is unlawful for any person to enter upon the lands or premises of another without written permission of the owner of the lands or premises, in order to break, cut, take or carry away or in any manner to damage or cause to be broken, cut, taken or carried away or in any manner damaged, any trees or timber on the land.
- (c) It is unlawful for any person willfully or knowingly to have in his possession, or to haul along any public road in this municipality, any trees, shrubbery or flowers, including everything under the title of flora, which are protected by this section, unless the person so having in his possession or hauling the trees, shrubbery or flowers, and any other plant, has permission in writing so to do from the owner or tenant of the land from which they have been taken.
- (d) At the request of a law-enforcement officer, a person engaged in any act which would constitute an offense under the provisions of subsection (a), (b) or (c) or this section if such act were done without the required permission specified therein, shall display the written permission to such officer.
- (e) Notwithstanding the provisions of this section or section 5-2-13:
 - (1) An employee of the Department of Highways or of a county or municipality performing roadside maintenance shall obtain the permission of an owner before engaging in any act specified in subsection (a), (b) or (c) of this section but is not required to obtain the permission in writing or to display the written permission as provided in subsection (d) of this section; and

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- (2) If an employee, agent or contractor of a public utility as defined in WV code 24-1-2, has obtained the written permission of an owner pursuant to a contract with said owner or his predecessor in title or by other operation of law, the employee, agent or contractor of said public utility shall, prior to engaging in any act specified in subsection (a), (b) or (c) of this section, provide reasonable notice to the owner under rules and regulations which the Public Service Commission shall promulgate: Provided, That such rules and regulations shall not require prior notice in a case of sudden emergency endangering persons or property of either the landowner, the occupant of the land, the public utility or the general public: Provided, however, That such rules and regulations shall require reasonable notice to the landowner that such acts have been performed without prior notice by reason of such emergency.
- (f) Any person who violates the provisions of subsection (a) or (c) of this section shall be guilty of a misdemeanor, and, upon conviction thereof, for the first offense shall be fined not more than fifty dollars, and for subsequent offenses shall be confined in the county jail for not more than thirty days, or fined not more than fifty dollars, or both, for each offense.
- (g) Any person who violates the provisions of subsection (b) of this section shall be guilty of a misdemeanor, and, upon conviction thereof, shall be fined not less than fifty dollars.

For State Law basis of this section, see WV Code §61-3-48.

Section 5-2-13. Cutting, damaging or carrying away without written permission, timber, trees, growing plants or the products thereof; treble damages provided.

Any person who enters upon the land or premises of another without written permission from the owner of the land or premises in order to cut, damage or carry away or cause to be cut, damaged or carried away, any timber, trees, logs, posts, fruit, nuts, growing plant or product of any growing plant, shall be liable to the owner in the amount of three times the value of the timber, trees, growing plants or products thereof, which shall be in addition to and notwithstanding any other penalties by law provided.

For State Law basis of this section, see WV Code §61-3-48a.

Section 5-2-14. Unauthorized use of dumpsters.

- (a) Any person who without authorization dumps garbage or trash, or assists in the unauthorized dumping of garbage or trash, in a dumpster or other solid waste container which is located on the property of another person and leased or otherwise owned or maintained by another person is guilty of a misdemeanor and, upon conviction thereof, shall be punished in accordance with subsection (b) of this section. The act of throwing insulated objects into a dumpster or other solid

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waste container in the prevention or elimination of litter is specifically excepted from any penalties under this section.

- (b) Any person convicted of a misdemeanor under subsection (a) of this section shall be subject to the following penalties:
- (1) Upon a first conviction under this section, the defendant shall be fined not less than fifty nor more than two hundred fifty dollars.
 - (2) Upon a second conviction under this section, the defendant shall be fined not less than two hundred fifty dollars not more than five hundred dollars.
 - (3) Upon any subsequent conviction in excess of a second conviction under this section, the defendant shall be fined not less than five hundred nor more than one thousand dollars, or imprisoned in the regional jail not less than thirty days, or both.

Notwithstanding the provisions of WV Code §60-11A-4 or §50-3-2a, the Municipal Judge may order restitution not to exceed the value of unauthorized solid waste services received.

For State Law basis of this section, see WV Code §61-3-53.

Section 5-2-15. Failure to pay for gasoline.

Any person who knowingly and willfully drives a motor vehicle off the premises of an establishment where gasoline offered for retail sale was dispensed into the fuel tank of the motor vehicle with the intent to avoid payment for the gasoline that was so dispensed shall be deemed to be guilty of the larceny thereof. In addition to the penalties provided for by the provisions of section 5-2-2 of this chapter, upon a second conviction for larceny of gasoline, the court shall order the suspension of the person's license to drive a motor vehicle for six months, and upon a third or subsequent conviction, the court shall order the suspension of the person's license to drive a motor vehicle for one year.

Whenever a second or subsequent offense is had under the provisions of this section, the clerk of the court shall transmit a certified abstract of the judgment to the Division of Motor Vehicles within seventy-two hours of the conviction. Upon receipt of the abstract of judgment the Division of Motor Vehicles shall enter an order suspending the person's license to operate a motor vehicle for the appropriate time period.

For State Law basis of this section, see WV Code §61-3-55.

Article 3. Shoplifting.

Section 5-3-1. Shoplifting defined.

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- (a) A person commits the offense of shoplifting if, with intent to appropriate merchandise without paying the merchant's stated price for the merchandise, such person, alone or in concert with another person, knowingly:
- (1) Conceals the merchandise upon his or her person or in another manner; or
 - (2) Removes or causes the removal of merchandise from the mercantile establishment or beyond the last station for payment; or
 - (3) Alters, transfers or removes any price marking affixed to the merchandise; or
 - (4) Transfers the merchandise from one container to another; or
 - (5) Causes the cash register or other sales recording device to reflect less than the merchant's stated price for the merchandise; or
 - (6) Removes a shopping cart from the premises of the mercantile establishment; or
 - (7) Repudiates a card-not-present credit or debit transaction after having taken delivery of merchandise ordered from the merchant and does not return the merchandise or attempt to make other arrangements with the vendor.
- (b) A person also commits the offense of shoplifting if such person, alone or in concert with another person, knowingly and with intent obtains an exchange or refund or attempts to obtain an exchange or refund for merchandise which has not been purchased from the mercantile establishment.

For State Law basis of this section, see WV Code §61-3A-1.

Section 5-3-2. Evidence.

- (a) Evidence of stated price or ownership or merchandise may include, but is not limited to:
- (1) The actual merchandise alleged to have been shoplifted; or
 - (2) The unaltered content of the price tag or marking from such merchandise; or
 - (3) Properly identified photographs of such merchandise.
- (b) Any merchant may testify at a trial as to the stated price or ownership of merchandise, as well as to other matters pertaining to the case.

For State Law basis of this section, see WV Code §61-3A-2.

Section 5-3-3. Penalties.

A person convicted of shoplifting shall be punished as follows:

- (a) Upon a shoplifting conviction:
 - (1) When the value of the merchandise is less than or equal to five hundred dollars, the person is guilty of a misdemeanor and shall be fined not more than two hundred fifty dollars.
 - (2) When the value of the merchandise exceeds five hundred dollars, the person is guilty of a misdemeanor and shall be fined not less than one hundred nor more than five hundred dollars, and such fine shall not be suspended, or the person shall be confined in jail not more than thirty days, or both.
- (b) Mandatory penalty. – In addition to the fines and imprisonment imposed by this section, in all cases of conviction for the offense of shoplifting, the court shall order the defendant to pay a penalty to the mercantile establishment involved in the amount of fifty dollars, or double the value of the merchandise involved, whichever is higher. The mercantile establishment shall be entitled to collect such mandatory penalty as in the case of a civil judgment. This penalty shall be in addition to the mercantile establishment’s rights to recover the stolen merchandise.

For State Law basis of this section, see WV Code §61-3A-3.

Section 5-3-4. Shoplifting constitutes breach of peace; detention.

An act of shoplifting as defined herein, is hereby declared to constitute a breach of peace and any owner of merchandise, his agent or employee, or any law-enforcement officer who has reasonable ground to believe that a person has committed shoplifting, may detain such person in a reasonable manner and for a reasonable length of time not to exceed thirty minutes, for the purpose of investigating whether or not such person has committed or attempted to commit shoplifting. Such reasonable detention shall not constitute an arrest nor shall it render the owner of merchandise, his agent or employee, liable to the person detained.

For State Law basis of this section, see WV Code §61-3A-4.

Section 5-3-4a. Criminal offenses involving theft detection shielding devices; detention.

- (a) As used in this section:
 - (1) “Theft detection device” means any tag or other device that is used to prevent or detect theft and that is attached to merchandise held for resale by a merchant or to property of a merchant.

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- (2) “Theft detection device remover” means any tool or device specifically designed or manufactured to be used to remove a theft detection device from merchandise held for resale by a merchant or property of a merchant.
 - (3) “Theft detection shielding device” means any laminated or coated bag or device designed to shield merchandise held for resale by a merchant or property of a merchant from being detected by an electronic or magnetic theft alarm sensor.
- (b) A person commits unlawful distribution of a theft detection shielding device when he or she knowingly manufactures, sells, offers to sell or distribute any theft detection shielding device.
 - (c) A person commits unlawful possession of a theft detection shielding device when he or she knowingly possesses any theft detection shielding device with the intent to commit theft or retail theft.
 - (d) A person commits unlawful possession of a theft detection shielding device remover when he or she knowingly possesses any theft detection device remover with the intent to use such tool to remove any theft detection device from any merchandise without the permission of the merchant or person owning or holding said merchandise.
 - (e) A person commits unlawful use of a theft detection shielding device or a theft detection shielding remover when he or she uses or attempts to use either device while committing a violation of this article.
 - (f) A person commits unlawful removal of a theft detection device when he or she intentionally removes any theft detection device by the use of manual force or by any tool or device, which is not specifically designed or manufactured to remove theft detection devices, from merchandise prior to purchase.
 - (g) Any person convicted for violating the provisions of subsections (b), (c), (d), or (e) of this section is guilty of a misdemeanor, and upon conviction thereof, shall be confined in the regional jail for not less than thirty days, and fined not less than two hundred fifty dollars nor more than one thousand dollars.
 - (h) Any person convicted of violating the provisions of subsection (f) of this section is guilty of a misdemeanor, and upon conviction thereof, shall be fined not less than one hundred dollars nor more than five hundred dollars, and such fine shall not be suspended, or the person shall be confined in the regional jail not more than thirty days, or both.
 - (i) The activation of an anti-shopping or inventory control device as a result of a person exiting the establishment or a protected area within the establishment shall

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constitute reasonable cause for the detention of the person so exiting by the owner or operator or the establishment or by an agent or employee of the owner or operator, provided sufficient notice has been posted to advise the patrons that such a device is being utilized. Each such detention shall be made only in a reasonable manner and only for a reasonable period of time sufficient for any inquiry into the circumstances surrounding the activation of the device or for the recovery of goods.

- (j) Such taking into custody and detention by a law-enforcement officer, merchant, or merchant's employee, if done in compliance with all the requirements of this section, does not render such law-enforcement officer, merchant, or merchant's employee criminally or civilly liable for false arrest, false imprisonment, or unlawful detention.

For State Law basis of this section, see WV Code §61-3A-4a.

Article 4. Trespass.

Section 5-4-1. Definitions.

As used in this article.

- (1) "Structure" means any building of any kind, either temporary or permanent, which has a roof over it, together with the curtilage thereof.
- (2) "Conveyance" means any motor vehicle, vessel, railroad car, railroad engine, trailer, aircraft or sleeping car, and "to enter a conveyance" includes taking apart any portion of the conveyance.
- (3) An act is committed "in the course of committing" if it occurs in an attempt to commit the offense or in flight after the attempt or commission.
- (4) "Posted land" is that land upon which reasonably maintained signs are placed not more than five hundred feet apart along and at each corner of the boundaries of the land, upon which signs there appears prominently in letter of not less than two inches in height the words "no trespassing" and in addition thereto the name of the owner, lessee or occupant of the land. The signs shall be placed along the boundary line of posted land in a manner and in a position as to be clearly noticeable from outside of the boundary line. It shall not be necessary to give notice by posting on any enclosed land or place not exceeding five acres in area on which there is a dwelling house or property that by its nature and use is obviously private in order to obtain the benefits of this article pertaining to trespass on enclosed lands.

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- (5) “Cultivated land” is that land which has been cleared of its natural vegetation and is presently planted with a crop, orchard, grove, pasture or tress or is fallow land as part of a crop rotation.
- (6) “Fenced land” is that land which has been enclosed by a fence of substantial construction, whether with rails, logs, post and railing, iron, steel, barbed wire, other wire or other material, which stands at least three feet in height. For the purpose of this article, it shall not be necessary to fence any boundary or part of a boundary of any land which is formed by water and is posted with signs pursuant to the provisions of this article.
- (7) Where lands are posted, cultivated or fenced as described herein, then such lands, for the purpose of this article, shall be considered as enclosed and posted.
- (8) “Trespass” under this article is the willful unauthorized entry upon, in or under the property of another, but shall not include the following:
 - (a) Entry by the State, its political subdivisions or by the officers, agencies or instrumentalities thereof as authorized and provided by law.
 - (b) The exercise of rights in, under or upon property by virtue of rights-of-way or easements by a public utility or other person owning such right-of-way or easement whether by written or prescriptive right.
 - (c) Permissive entry, whether written or oral, and entry from a public road by the established private ways to reach a residence for the purpose of seeking permission shall not be trespass unless signs are posted prohibiting such entry.
 - (d) Entry performed in the exercise of a property right under ownership of an interest in, under or upon such property.
 - (e) Entry where no physical damage is done to property in the performance of surveying to ascertain property boundaries, and in the performance of necessary work of construction, maintenance and repair of a common property line fence, or buildings or appurtenances which are immediately adjacent to the property line and maintenance of which necessitates entry upon the adjoining owner’s property.

For State Law basis of this section, see WV code §61-3B-1.

Section 5-4-2. Trespass in structure or conveyance.

Any person who knowingly enters in, upon or under a structure or conveyance without being authorized, licensed or invited, or having been authorized, licensed or invited is requested to depart by the owner, tenant or the agent of such owner or tenant, and refuses to do so, shall be

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guilty of a misdemeanor, and, upon conviction thereof, shall be fined not more than one hundred dollars.

If the offender is armed with a firearm or other dangerous weapon while in the structure or conveyance, with the unlawful and felonious intent to do bodily injury to a human being in said structure or conveyance at the time the offender knowingly trespasses, such offender shall, notwithstanding the provisions of WV Code 61-7-1, be guilty of a misdemeanor, and, upon conviction thereof, shall be fined not less than one hundred dollars nor more than five hundred dollars, or be confined in the regional jail for a period not to exceed thirty days, or both.

For State Law basis of this section, see WV code §61-3B-2.

Section 5-4-3. Trespass on property other than structure or conveyance.

- (a) Any person who knowingly and without being authorized, licensed or invited, enters or remains on any property, other than a structure or conveyance, as to which notice against entering or remaining is either given by actual communication to such person or by posting, fencing or cultivation, shall be guilty of a misdemeanor, and, upon conviction thereof, shall be fined not more than one hundred dollars.
- (b) If the offender defies an order to leave, personally communicated to him by the owner, tenant or agent of such owner or tenant, or if the offender opens any door, fence or gate, and thereby exposes animals, crops or other property to waste, destruction or freedom, or causes any damage to property by such trespassing on property other than a structure or conveyance, he shall be guilty of a misdemeanor, and, upon conviction thereof, shall be fined not less than one hundred dollars nor more than five hundred dollars or imprisoned in the regional jail for a period not to exceed thirty days, or both.
- (c) If the offender is armed with a firearm or other dangerous weapon with the unlawful and felonious intent to do bodily injury to a human being during his commission of the offense of trespass on property other than a structure or conveyance, such offender shall, notwithstanding the provisions of WV Code 61-7-1, be guilty of a misdemeanor, and, upon conviction thereof, shall be confined in the regional jail for a term not to exceed thirty days, or fined not more than one hundred dollars, or both.
- (d) Notwithstanding and in addition to any other penalties provided by law, any person who performs or causes damage to property in the course of a willful trespass shall be liable to the property owner in the amount of twice the amount of such damage: Provided, That the provisions of this article shall not apply in a labor dispute.

For State Law basis of this section, see WV Code §61-3B-3.

Article 5. Computer Crime and Abuse.

Section 5-5-1. Obscene, anonymous, harassing and threatening communications by computer; penalty.

- (a) It is unlawful for any person, with the intent to harass or abuse another person, use a computer to:
 - (1) Make contact with another without disclosing his or her identity with the intent to harass or abuse;
 - (2) Make contact with a person after being requested by the person to desist from contacting them;
 - (3) Threaten to commit a crime against any person or property; or
 - (4) Cause obscene material to be delivered or transmitted to a specific person after being requested to desist from sending such material.

For purposes of this section, “obscene material” means material that:

- (A) An average person, applying contemporary adult community standards, would find, taken as a whole, appeals to the prurient interest, is intended to appeal to the prurient interest, or is pandered to a prurient interest;
 - (B) An average person, applying contemporary adult community standards, would find, depicts or describes, in a patently offensive way, sexually explicit conduct consisting of an ultimate sexual act, normal or perverted, actual or simulated, an excretory function, masturbation, lewd exhibition of the genitals or sadomasochistic sexual abuse; and
 - (C) A reasonable person would find, taken as a whole, lacks literary, artistic, political or scientific value.
- (b) It is unlawful for any person to knowingly permit a computer under his or her control to be used for any purpose prohibited by this section.
 - (c) Any offense committed under this section may be determined to have occurred at the place at which the contact originated or the place at which the contact was received or intended to be received.
 - (d) Any person who violates a provision of this section is guilty of a misdemeanor and, upon conviction thereof, shall be fined not more than five hundred dollars or confined in a county or regional jail not more than thirty days, or both. For a

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second or subsequent offense, the person is guilty of a misdemeanor and, upon conviction thereof, shall be fined not more than one thousand dollars or confined in a county or regional jail for not more than thirty days, or both.

For State Law basis of this section, see WV Code §61-3C-14.

Article 6. Theft of Cable Television Service.

Section 5-6-1. Definitions.

As used in this article:

- (1) “Cable system” means any facility within this state consisting of a set of closed transmission paths and associated signal generation, reception and control equipment that is designated to provide cable television service which includes video programming and which is provided to multiple subscribers within a community, and does not include: (A) A facility that serves only to retransmit the television signals of one or more television broadcast stations; (B) a facility that serves only subscribers in one or more multiple unit dwellings under common ownership, control or management, unless that facility or facilities uses any public right-of-way; or (C) a facility of a public utility subject, in whole or in part, to the provisions of WV Code 24-1-1, except, to the extent that those facilities provide video programming directly to subscribers.
- (2) “Cable operator” means any person or group of persons: (A) Who provides cable service over a cable system and directly or through one or more affiliates owns a significant interest in the cable system; or (B) who otherwise controls or is responsible for, though any arrangement, the management and operation of a cable system.
- (3) “Cable service” means: (A) The one-way transmission to subscribers of video programming or other programming service; and (B) subscriber interaction, if any, which is required for the selection of video programming or other programming service.
- (4) “Subscriber” means any person who receives cable television services.
- (5) “Unauthorized” means that payment of full compensation for cable television services has been avoided, or has been sought to be avoided, without the consent of the supplier of the service.

For State Law basis of this section, see WV Code §61-3D-1.

Section 5-6-2. Illegal acquisition of cable television services.

- (a) A person who acquires cable television services for himself or another, whether through his own efforts or with the assistance of another, or both, by:

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- (1) Making or maintaining any unauthorized connection, whether physically, electrically or inductively, to a distribution or transmission line;
 - (2) Attaching or maintaining the attachment of any unauthorized device to any cable, wire or other component of a cable system or to a television receiving set connected to a cable system;
 - (3) Making or maintaining any unauthorized modification or alteration to any device installed by a cable system operator; or
 - (4) Knowingly permits another person to enter upon his or her property for the purpose of securing cable service in an unauthorized manner as described in subdivision (1), (2) or (3) of this subsection shall be guilty of a misdemeanor and, upon conviction, shall be punished in accordance with subsection (c) of this section.
- (b) A person who subscribed to and receives cable television services through an authorized connection of a television receiving set at his dwelling and, within his dwelling, makes an authorized or an unauthorized connection of an additional television receiving set or sets or audio system which receives cable television service through such authorized connection, shall not be guilty of a misdemeanor under subsection (a) of this section.
- (c) Any person convicted of a misdemeanor under subsection (a) of this section shall be subject to the following penalties:
- (1) Upon a first conviction under this section, the defendant shall be fined not less than one hundred dollars, nor more than two hundred fifty dollars.
 - (2) Upon a second conviction under this section, the defendant shall be fined not less than two hundred fifty nor more than five hundred dollars, or imprisoned in the regional jail not more than thirty days, or both.
 - (3) Upon any subsequent conviction in excess of a second conviction under this section, the defendant shall be fined not less than five hundred dollars, nor more than one thousand dollars, or imprisoned in the regional jail not less than thirty days, or both.

Notwithstanding the provisions of section 61-11A-4 of WV Code or 50-3-2a of WV Code, the municipal judge may order restitution not to exceed the value of unauthorized cable services received.

For the State Law basis of this section, see WV code §61-3D-2.

Section 5-6-3. Sale of transfer of device or plan intended to illegally acquire or divert cable services.

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- (a) A person who sells, gives or otherwise transfers to another or offers, advertises or exposes for sale to another any device, mechanism, tool or printed circuit, or any kit, plan or instructional procedure for the making of such device, mechanism, tool or printed circuit, with the knowledge that another will acquire cable television services in violation of this article, is guilty of a misdemeanor and shall be punishable in accordance with subsection (b) of this section.
- (b) A person convicted of a misdemeanor under this section shall be punished as follows:
 - (1) Upon a first conviction under this section, the defendant shall be fined not less than two hundred and fifty dollars, nor more than five hundred dollars.
 - (2) Upon a second conviction under this section, the defendant shall be fined not less than five hundred dollars, nor more than one thousand dollars, or confined in the regional jail not more than twenty days, or both fined and confined.
 - (3) Upon a third conviction under this section, the defendant shall be fined not less than five hundred dollars, nor more than one thousand dollars, or confined in the regional jail for not less thirty days.

Section 5-6-4. Evidence.

Evidence that (1) the defendant had possession of or access to the location of the distribution or transmission lines or other facilities of a cable system which have been tapped, altered or tampered with or to which any unauthorized connection has been made or to which any unauthorized device has been attached or (2) the defendant had possession of or access to any device installed by a cable system operator to which an unauthorized modification or alteration has been made, may be used, but shall not be required, to establish that a person violated this article.

In addition to any fine or imprisonment by this article, any person found guilty of violating the provisions of this article shall be ordered to pay restitution for the value of the services consumed and the damage to any utility meter or property resulting from the violation.

Article 7. Crimes against Public Justice.

Section 5-7-1. Refusal of person to aid officer; penalty.

If any person shall, on being required by any officer of this Municipality, refuse or neglect to assist him in the execution of his office in a criminal case or in the preservation of the peace, or in the apprehending or securing of any person for a breach of the peace, or in any case of escape

or rescue, he shall be guilty of a misdemeanor, and, upon conviction, shall be confined in the regional jail not more than thirty days and fined not exceeding one hundred dollars.

For State Law basis of this section, see W.V. Code, §61-5-14.

Section 5-7-2. Obstructing officer; fleeing from officer; making false statement to officer; penalties; definitions.

- (a) Any person who by threats, menaces, acts or otherwise, forcibly or illegally hinders or obstructs, or attempts to hinder or obstruct, any law-enforcement officer, probation officer or parole officer acting in his or her official capacity is guilty of a misdemeanor and, upon conviction thereof, shall be fined not less than fifty nor more than five hundred dollars or confined in the regional jail not more than thirty days, or both.
- (b) Any person who, with intent to impede or obstruct a law-enforcement officer in the conduct of an investigation of a felony offense, knowingly and willfully makes a materially false statement, is guilty of a misdemeanor and, upon conviction thereof, shall be fined not less than twenty-five dollars and not more than two hundred dollars, or confined in the regional jail for five days or both: Provided, That the provisions of this section shall not apply to statements made by a spouse, parent, stepparent, grandparent, sibling, half-sibling, child, stepchild or grandchild, whether related by blood or marriage, of the person under investigation. Statements made by the person under investigation may not be used as the basis for prosecution under this subsection. For the purpose of this subsection, “law-enforcement officer” shall not include watchman, State Police or college security personnel.
- (c) Any person who intentionally flees or attempts to flee by any means other than the use of a vehicle from any law-enforcement officer, probation officer or parole officer acting in his or her official capacity who is attempting to make a lawful arrest of the person, and who knows or reasonably believes that the officer is attempting to arrest him or her, is guilty of a misdemeanor and, upon conviction thereof, shall be fined not less than fifty nor more than five hundred dollars or confined in the regional jail not more than thirty days, or both.
- (d) Any person who intentionally flees or attempts to flee in a vehicle from any law-enforcement officer, probation officer or parole officer acting in his or her official capacity, after the officer has given a clear visual or audible signal directing the person to stop, is guilty of a misdemeanor and, upon conviction thereof, shall be fined not less than five hundred nor more than one thousand dollars, and shall be confined in the regional jail not more than thirty days.
- (e) For the purposes of this section, the term “vehicle” includes any motor vehicle, motorcycle, motorboat, all-terrain vehicle or snowmobile, as those terms are

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defined in 17A-1-1 of WV Code, whether or not it is being operated on a public highway at the time and whether or not it is licensed by the state.

- (f) For the purposes of this section, the terms “flee”, “fleeing” and “flight” do not include any person’s reasonable attempt to travel to a safe place, allowing the pursuing law-enforcement officer to maintain appropriate surveillance, for the purpose of complying with the officer’s direction to stop.

For State Law basis of this section, see WV code §61-5-17.

Section 5-7-3. Interfering with City Officers and Employees.

No person shall carelessly or willfully interfere with, hinder or obstruct any officer or employee of the city who is engaged in, en route to or returning from, the performance of official duty, whether such interference, hindrance or obstruction be by threat, assault or otherwise.

Article 8. Crimes against the peace.

Section 5-8-1. Suppression of riots and unlawful assemblages.

All members of the Municipal Police Department and all mayors within their respective jurisdiction may suppress riots, routs and unlawful assemblages. It shall be the duty of each of them to go among, or as near as may be with safety, to persons riotously, tumultuously, or unlawfully assembled, and in the name of the law command them to disperse; and if they shall not thereupon immediately and peaceably disperse, such member of police department or mayor giving the command, and any other present, shall command the assistance of all persons present, and of all or any part of other law-enforcement personnel available to him, as need be, in arresting and securing those so assembled. If any person present, on being required to give his assistance, depart, or fail to obey, he shall be deemed a rioter.

Section 5-8-2. Control of riots and unlawful assemblages.

Members of the police department and mayor, and those acting under their order, may, when engaged in suppressing a riot, rout or unlawful assemblage, cordon off any area or areas threatened by such riot, rout or unlawful assemblage, and may take all actions which are necessary and reasonable under the emergency to restore law and order, and such actions may be, but are not limited to, the following:

- (a) Prohibit the sale, offering for sale, dispensing, furnishing or transportation of firearms or other dangerous weapons, ammunition, dynamite or other dangerous explosives in, to or from such areas.
- (b) Prohibit the sale, offering for sale, dispensing, furnishing or consumption of alcoholic beverages or nonintoxicating beer in a public place in such areas, and prohibit the transportation of alcoholic beverages or nonintoxicating beer in, to or from such areas.

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- (c) Impose curfews, as required, to control movement of persons in, to and from such areas.
- (d) Enter a private dwelling or other building or other private place in such areas when in fresh pursuit of a rioter, when in search of a sniper who has fired upon a person from such a dwelling or other building or place or when in search of firearms, other dangerous weapons, ammunition, dynamite or other dangerous explosives when there is reason to believe that such items are stored in the said dwelling, building or place and that they will be removed therefrom before a search warrant could be obtained.

No person shall willfully fail to obey a lawful order of any police officer or mayor, or other officer, given pursuant to this section.

Any person who violates an order given pursuant to the authority of this section shall be guilty of a misdemeanor and, upon conviction thereof, shall be fined not more than five hundred dollars, or imprisoned in the regional jail not more than thirty days, or both.

Section 5-8-3. Disorderly conduct; penalty.

- (a) Any person who, in a public place, any office or office building of the Municipality of Ronceverte, or on any other property owned, leased, occupied or controlled by the Municipality of Ronceverte, a mobile home park, a public parking area, a common area of an apartment building or dormitory, or a common area of a privately owned commercial shopping center, mall or other group of commercial retail establishments, disturbs the peace of others by violent, profane, indecent or boisterous conduct or language or by the making or unreasonably loud noise that is intended to cause annoyance or alarm to another person, and who persists in such conduct after being requested to desist by a law-enforcement officer acting in his lawful capacity, is guilty of disorderly conduct, a misdemeanor, and, upon conviction thereof, may be committed to the custody of the division of corrections for twenty-four hours or fined not more than one hundred dollars: Provided, That nothing in this subsection should be construed as a deterrence to the lawful and orderly public right to demonstrate in support or protest of public policy issues.
- (b) For purposes of this section:
 - (1) “Mobile home park” means a privately owned residential housing area or subdivision wherein the dwelling units are comprised mainly of mobile homes and wherein the occupants of such dwelling units share common elements for purposes of ingress and egress, parking, recreation and other like residential purposes.

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- (2) “Mobile home” means a moveable or portable unit, designed and constructed to be towed on its own chassis (comprised of frame and wheels) and designed to be connected to utilities for year-round occupancy. The term includes: (A) Units containing parts that may be folded, collapsed or telescoped when being towed and that may be expanded to provide additional cubic capacity; and (B) units composed of two or more separately towable components designed to be joined into one integral unit capable of being separated again into the components for repeated towing.
- (3) “Public parking area” means an area, whether publicly or privately owned or maintained, open to the use of the public for parking motor vehicles.

For State Law basis of this section, see WV code §61-6-1b.

Section 5-8-4. Commitment and recognizance of rioters.

If any person be arrested for a riot, rout or unlawful assemblage, he shall be taken without unreasonable delay before a municipal judge of the municipality in which the arrest is made who shall commit him to jail, unless he shall enter into a recognizance, with sufficient security, to appear before the court having jurisdiction of the offense, at its next term, to answer therefore, and in the meantime to be of good behavior and to keep the peace.

Section 5-8-5. Disturbance of schools, societies and other assemblies; penalty.

If any person willfully interrupt, molest or disturb any free school, Sunday school or other school, a school exhibition, or any literary society, or any other society or meeting formed or convened for intellectual, social or moral improvement, or for improvement in music, either vocal or instrumental, or for any moral or social amusement, or any other society organized or carried on under or in the pursuance of the laws of the State of West Virginia, or any fourth of July celebration, Christmas tree, or church festival, or any other festival, or any society, lawfully carried on, he shall be guilty of a misdemeanor, and, upon conviction, shall be fined not less than ten nor more than fifty hundred dollars, and, at the discretion of the court, be confined in the regional jail not more than thirty days in addition to such fine.

For State Law basis of this section, see W.V. Code, §61-6-14.

Section 5-8-6. Loitering on school property; penalty; exceptions.

No person, not a student in regular attendance, shall loiter in or about any school, school building or school grounds in violation of any posted rules or regulations governing the use of any such school without written permission from the principal.

Any person who shall violate the provisions of this section shall be guilty of a misdemeanor and, upon conviction for the first offense thereof, shall be fined not more than one hundred dollars, or imprisoned in the regional jail not more than thirty days, or both. Upon a second or subsequent

conviction, any such person shall be fined not more than five hundred dollars, or imprisoned in the regional jail not more than thirty days, or both.

For State Law basis of this section, see WV Code §61-6-14a.

Section 5-8-7. Willful disruption of governmental processes; offenses occurring at municipal buildings; penalties.

- (a) If any person willfully interrupts or molests the orderly and peaceful process of any department, division, agency or branch of municipal government or of its political subdivisions, he or she is guilty of a misdemeanor and, upon conviction thereof, shall be fined not more than one hundred dollars, or imprisoned in the regional jail not more than thirty days, or both: Provided, That any assembly in a peaceable, lawful and orderly manner for a redress of grievances shall not be a violation of this section.
- (b) It is unlawful for any person to bring into the municipal building any weapon as defined by the provisions of WV Code 61-7-2. It is unlawful for any person to willfully deface any trees, wall, floor, stairs, ceiling, column, statute, monument, structure, surface, artwork or adornment in the municipal building. It is unlawful for any person or persons to willfully block or otherwise willfully obstruct any public access, stair or elevator in the municipal building after being asked by a law-enforcement officer acting in his or her official capacity to desist: Provided, That in order to preserve the constitutional right of the people to assemble, it is not willful blocking or willful obstruction for persons gathered in a group or crowd, if the persons move to the side or part to allow other persons to pass by the group or crowd to gain ingress or egress: Provided, however, That this subsection shall not apply to a law-enforcement officer acting in his or her official capacity.

Any person who violates any provision of this subsection is guilty of a misdemeanor and, upon conviction thereof, shall be fined not less than one hundred dollars or confined in the regional jail not more than thirty days, or both.

For State Law basis of this section, see WV code §61-6-19.

Section 5-8-8. Falsely reporting an emergency incident.

A person is guilty of reporting a false emergency incident when, knowing the information reported, conveyed or circulated is false or baseless, he:

- (1) Initiates or circulates a false report or warning of or impending occurrence of a fire, explosion, crime, catastrophe, accident, illness or other emergency under circumstances in which it is likely that public alarm or inconvenience will result or that firefighting apparatus, ambulance apparatus, one or more rescue vehicles or other emergency apparatus might be summoned; or

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- (2) Reports, by word or action, to any official or quasi-official agency or organization having the function of dealing with emergencies involving danger to life or property, an alleged occurrence or impending occurrence of a fire, explosion, crime, catastrophe, accident, illness or other emergency in which it is likely that public alarm or inconvenience will result or that firefighting apparatus, ambulance apparatus, one or more rescue vehicles or other emergency apparatus might be summoned, which did not occur, does not in fact exist; or
- (3) Reports to a law-enforcement officer or agency the alleged occurrence of any offense or incident which did not in fact occur or an allegedly impending occurrence of an offense or incident which is not in fact about to occur or false information relating to an actual offense or incident or to the alleged implication of some person therein; or
- (4) Without just cause, call or summons by telephone, fire alarm system or otherwise, any firefighting apparatus, ambulance apparatus, rescue vehicles or other emergency vehicles.

Any person who violates this section is guilty of a misdemeanor and, upon conviction thereof, shall be fined not more than five hundred dollars or confined in the regional jail not more than thirty days, or both.

For State Law basis of this section, see WV code §61-6-20.

Section 5-8-9. Wearing masks, hoods or face coverings.

- (a) Except as otherwise provided in this section, no person, whether in a motor vehicle or otherwise, while wearing any mask, hood, or device whereby any portion of the face is so covered as to conceal the identity of the wearer, may:
 - (1) Come into or appear upon any walk, alley, street, road, highway or other thoroughfare dedicated to public use;
 - (2) Come into or appear in any trading area, concourse, waiting room, lobby or foyer open to, used by or frequented by the general public;
 - (3) Come into or appear upon or within any of the grounds or buildings owned, leased, maintained or operated by the municipality;
 - (4) Ask, request, or demand entrance or admission to the premises, enclosure, dwelling or place of business of any other person within this state; or
 - (5) Attend or participate in any meeting upon private property of another unless written permission for such meeting has first been obtained from the owner or occupant thereof.
- (b) The provisions of this section do no apply to any person:

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- (1) Under sixteen years of age;
 - (2) Wearing a traditional holiday costume;
 - (3) Engaged in a trade or employment where a mask, hood or device is worn for the purpose of ensuring the physical safety of the wearer;
 - (4) Using a mask, hood or device in theatrical productions, including use in mardi gras celebrations or similar masquerade balls;
 - (5) Wearing a mask, hood or device prescribed for civil defense drills, exercises or emergencies; or
 - (6) Wearing a mask, hood or device for the sole purpose of protection from the elements or while participating in a winter sport.
- (c) Any person who violates any provision of this section is guilty of a misdemeanor and, upon conviction thereof, shall be fined not more than five hundred dollars, or imprisoned in the regional jail not more than thirty days, or both.

For State Law basis of this section, see WV code §61-6-22.

Article 9. Dangerous Weapons.

Section 5-9-1. Definitions.

As used in this article, unless the context otherwise requires:

- (1) “Blackjack” means a short bludgeon consisting, at the striking end, of an encased piece of lead or some other heavy substance and, at the handle end, a strap or springy shaft which increases the force of impact when a person or object is struck. The term “blackjack” shall include, but not be limited to, a billy, billy club, sand club, sandbag or slapjack.
- (2) “Gravity knife” means any knife that has a blade released from the handle by the force of gravity or the application of centrifugal force and when so released is locked in place by means of a button, spring, lever or other locking or catching device.
- (3) “Knife” means an instrument, intended to be used or readily adaptable to be used as a weapon, consisting of a sharp-edged or sharp-pointed blade, cutting, stabbing or tearing wounds. The term “knife” shall include, but not be limited to, any dagger, dirk, poniard or stiletto, with a blade over three and one-half inches in length, any switchblade knife or gravity knife and any other instrument capable of inflicting cutting, stabbing or tearing wounds. A pocket knife with a blade three

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and one-half inches or less in length, a hunting or fishing knife carried for hunting, fishing, sports or other recreational uses, or a knife designed for use as a tool or household implement shall not be included within the term “knife” as defined herein unless such knife is knowingly used or intended to be used to produce serious bodily injury or death.

- (4) “Switchblade knife” means any knife having a spring-operated blade which opens automatically upon pressure being applied to a button, catch or other releasing device in its handle.
- (5) “Nunchuka” means a flailing instrument consisting of two or more rigid parts, connected by a chain, cable, rope or other nonrigid, flexible or springy material, constructed in such a manner as to allow the rigid parts to swing freely so that one rigid part may be used as a handle and the other rigid part may be used as the striking end.
- (6) “Metallic or false knuckles” means a set of finger rings attached to a transverse piece to be worn over the front of the hand for use as a weapon and constructed in such a manner that, when striking another person with the fist or closed hand, considerable physical damage may be inflicted upon the person struck. The terms “metallic or false knuckles” shall include any such instrument without reference to the metal or other substance or substances from which the metallic or false knuckles are made.
- (7) “Pistol” means a short firearm having a chamber which is integral with the barrel, designed to be aimed and fired by the use of a single hand.
- (8) “Revolver” means a short firearm having a cylinder of several chambers that are brought successively into line with the barrel to be discharged, designed to be aimed and fired by the use of a single hand.
- (9) “Deadly weapon” means an instrument which is designed to be used to produce serious bodily injury or death or is readily adaptable to such use. The term “deadly weapon” shall include, but not be limited to, the instruments defined in subdivisions (1) through (8), inclusive, of this section or other deadly weapons of like kind or character which may be easily concealed on or about the person. For the purposes of Ronceverte Municipal Code 5-9-2 and 5-9-3, in addition to the definition of “knife” set forth in subdivision (3) of this section, the term “deadly weapon” also includes any instrument included within the definition of “knife” with a blade of three and one-half inches or less in length. Additionally, for the purposes of WV code 18A-5-1a and 61-7-11a, the term “deadly weapon” includes explosive, chemical, biological and radiological materials. Notwithstanding any other provision of this section, the term “deadly weapon” does not include any item or material owned by the school or county board, intended for curricular use, and used by the student at the time of the alleged offense solely for curricular purposes.

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- (10) “Concealed” means hidden from ordinary observation so as to prevent disclosure or recognition. A deadly weapon is concealed when it is carried on or about the person in such a manner that another person in the ordinary course of events would not be placed on notice that the deadly weapon was being carried.
- (11) “Firearm” means any weapon which will expel a projectile by action of an explosion.
- (12) “Controlled substance” has the same mean as is ascribed to that term in WV Code 60A-1-101.
- (13) “Drug” has the same meaning as is ascribed to that term in WV Code 60A-1-101.

For State Law basis of this section, see WV code §61-7-2.

Section 5-9-2. Carrying deadly weapon without license or other authorization; penalties.

Any person who carries a concealed deadly weapon, without a state license or other lawful authorization established under the provisions of this code, shall be guilty of a misdemeanor, and, upon conviction thereof, shall be fined not less than one hundred dollars nor more than one thousand dollars and may be imprisoned in the regional jail for not more than thirty days.

For State Law basis of this section, see WV code §61-7-3.

Section 5-9-3. Brandishing deadly weapons; threatening or causing breach of the peace; penalties.

It shall be unlawful for any person armed with a firearm or other deadly weapon, whether licensed to carry the same or not, to carry, brandish or use such weapon in a way or manner to cause, or threaten, a breach of the peace. Any person violating this section shall be guilty of a misdemeanor, and, upon conviction thereof, shall be fined not less than fifty nor more than one thousand dollars and up to thirty days in the regional jail, or both.

For State Law basis of this section, see WV code §61-7-11.

Article 10. Crimes against chastity, morality and decency.

Section 5-10-1. Indecent exposure.

- (a) A person is guilty of indecent exposure when such person intentionally exposes his or her sex organs or anus or the sex organs or anus of another person, or intentionally causes such exposure by another or engages in any overt act of sexual gratification, and does so under circumstances in which the person knows that the conduct is likely to cause affront or alarm.

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- (b) Any person who violates the provisions of this section shall be guilty of a misdemeanor and, upon conviction thereof, shall be confined in the regional jail not more than thirty days, or fined not more than two hundred fifty dollars, or both.

For State Law basis of this section, see WV code §61-8-9.

Section 5-10-2. Breathing, inhaling, or drinking certain intoxicating compounds; penalty.

- (a) No person shall intentionally breathe, inhale or drink any compound, liquid, or chemical containing acetone, amylacetate, benzol or benzene, butyl acetate, butyl alcohol, carbon tetrachloride, chloroform, cyclohexanone, ethanol or ethyl acetate, hexane, isopropanol or isopropyl alcohol, isopropyl acetate, methyl “cellosolve” acetate, methyl ethyl ketone, methyl isobutyl ketone, toluol or toluene, trichloroethylene, tricresyl phosphate, xylol or xylene, or any other solvent, material substance, chemical, or combination thereof, having the property of releasing toxic vapors for the purpose of inducing a condition of intoxication, stupefaction, depression, giddiness, paralysis, or irrational behavior or in any manner changing, distorting, or disturbing the auditory, visual, or mental processes. For the purposes of this section, any condition so induced shall be deemed to be an intoxicated condition.
- (b) This section does not apply to:
 - (1) Any person who commits any act described herein pursuant to the direction or prescription of a licensed physician or dentist authorized to so direct or prescribe, including the inhalation of anesthesia for medical or dental purposes; or
 - (2) To any alcoholic liquor or nonintoxicating beer as defined WV code 60-1-5.
- (c) Any person who violates the provisions of this section is guilty of a misdemeanor and, upon conviction thereof, shall be fined not more than one hundred dollars or be confined in the regional jail for not more than thirty days, or both.

For State Law basis of this section, see WV code §61-8-11.

Section 5-10-3. Damage to cemetery or graveyard; penalties.

- (a) Any person who intentionally desecrates any cemetery, graveyard, mausoleum or other designated human burial site is guilty of a misdemeanor and, upon conviction thereof, shall be fined not more than two thousand dollars, or confined in regional jail not more than thirty days, or both.

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- (b) For the purposes of this subsection, “desecrate” means defacing, damaging or otherwise physically mistreating in a way that a reasonable person knows will outrage the sensibilities of persons likely to observe or discover his or her actions.

For State Law basis of this section, see WV code §61-8-14.

Section 5-10-4. Profane swearing and drunkenness; penalty.

If any person arrived at the age of discretion profanely curse or swear or get drunk in public, he shall be fined by a municipal judge one dollar for each offense.

For State Law basis of this section, see WV code §61-8-15.

Section 5-10-5. Obscene, anonymous, harassing, repeated and threatening telephone calls; penalty.

- (a) It shall be unlawful for any person with intent to harass or abuse another by means of telephone to:
 - (1) Make any comment, request, suggestion or proposal which is obscene; or
 - (2) Make a telephone call, whether or not conversation ensues, without disclosing his identity and with intent to harass any person at the called number; or
 - (3) Make or cause the telephone of another repeatedly or continuously to ring, with intent to harass any person at the called number; or
 - (4) Make repeated telephone calls, during which conversation ensues, with intent to harass any person at the called number; or
 - (5) Threaten to commit a crime against any person or property.
- (b) It shall be unlawful for any person to knowingly permit any telephone under his control to be used for any purpose prohibited by this section.
- (c) Any offense committed under this section may be deemed to have occurred at the place at which the telephone call was made, or the place at which the telephone called was received.
- (d) Any person who violates any provision of this section shall be guilty of a misdemeanor and, upon conviction thereof, shall be fined not more than five hundred dollars, or imprisoned in the regional jail not more than thirty days, or both.

For State Law basis of this section, see WV code §61-8-16.

Section 5-10-6. Unlawful admission of children to dance house, etc.; penalty.

Any proprietor or any person in charge of a dance house, concert saloon, theater, museum, or similar place of amusement, or other place, where wines or spirituous or malt liquors are sold or given away, or any place of entertainment injurious to health or morals, who admits or permits to remain therein any minor under the age of eighteen years, unless accompanied by his or her parent or guardian, shall be guilty of a misdemeanor, and, on conviction thereof, shall be punished by a fine not exceeding two hundred dollars.

For State Law basis of this section, see WV code §61-8-27.

Section 5-10-7. Use of false identification, etc., by person under age; penalty.

Any person who exhibits or displays a false or erroneous birth certificate, draft card, registration card or certificate, license, or identification card or certificate of any kind or character, or who exhibits or displays any certificate, card or license or any kind or character not his own, for the purpose of purchasing or drinking beer or liquor or gaining admittance to any establishment, from which he or she would otherwise be barred by reason of age, shall be guilty of a misdemeanor, and, on conviction thereof, shall be punished by a fine of not less than twenty-five nor more than one hundred dollars, and, in the discretion of the court, may be imprisoned in the regional jail not exceeding thirty days.

For State Law basis of this section, see WV code §61-8-27a.

Article 11. Crimes Against Public Policy.

Section 5-11-1. Keeping or exhibiting gaming table, machine, or device; penalty; seizure of table, machine or device; forfeiture of money used in such gaming.

Any person who shall keep or exhibit a gaming table, commonly called A. B. C. or E. O. table, or faro bank, or keno table, or any slot machine, multiple coin console machine, multiple coin console slot machine or device in the nature of a slot machine or any other gaming table or device of like kind, under any denomination, or which has no name, whether the game, table, bank, machine or device be played with cards, dice or otherwise, or shall be a partner, or concerned in interest, in keeping or exhibiting such table, bank, machine or gaming device of any character, shall be guilty of a misdemeanor and, upon conviction, shall be confined in jail for thirty days or be fined not less than one hundred nor more than one thousand dollars. Any such table, faro bank, machine or gaming device, and all money staked or exhibited to allure persons to bet at such table or upon such gaming device, may be seized by order of the municipal court or municipal judge, and the money so seized shall be forfeited to the Municipality and paid into the treasury of the Municipality, and the table, faro bank, machine or gaming device shall be completely destroyed; Provided, however, That the provisions of this section shall not extend to coin-operated nonpayout machines with free play feature or to automatic weighing, measuring, musical and vending machines which are so constructed as to give a certain uniform and fair return in value or services for each coin deposited therein and in which there is no element of chance.

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For State Law basis of this section, see W.V. Code, §61-10-1.

Section 5-11-2. Permitting gaming table or device on premises; penalty.

If any person knowingly permit a gaming table, bank or device, such as is mentioned in the preceding section [§ 5-10-1], to be kept or exhibited on any premises in his occupation, he shall be guilty of a misdemeanor, and, upon conviction, shall be confined in jail not more than thirty days, and be fined not less than one hundred nor more than one thousand dollars.

For State Law basis of this section, see WV Code §61-10-2.

Section 5-11-3. Unlawful to act as doorkeeper, guard or watch for keeper of gaming table or device; penalty.

If any person shall act as doorkeeper, guard or watch, or employ another person to act as such, for a keeper or exhibitor of any such gaming table, bank or device, or shall resist, or by any means or device, prevent, hinder or delay the lawful arrest of such keeper or exhibitor, or the seizure of the table, bank or device, or money exhibited or staked thereat, or shall unlawfully take the same from the person seizing it, he shall be guilty of a misdemeanor, and, upon conviction, shall be confined in jail not more than thirty days and be fined not exceeding one thousand dollars.

For State Law basis of this section, see WV Code §61-10-3.

Article 12. General Provisions Concerning Crimes.

Section 5-12-1. Punishment of principals in the second degree and accessories; who not deemed accessories after the fact.

In the case of every misdemeanor, every principal in the second degree, and every accessory before the fact, shall be punishable as if he were the principal in the first degree; and every accessory after the fact shall be confined in jail not more than thirty days and fined not exceeding five hundred dollars. But no person in the relation of husband and wife, parent or grandparent, child or grandchild, brother or sister, by consanguinity or affinity, or servant to the offender, who, after the commission of a misdemeanor, shall aid or assist a principal felon, or accessory before the fact, to avoid or escape from prosecution or punishment, shall be deemed an accessory after the fact.

For State Law basis of this section, see WV code §61-11-6.

Section 5-12-2. Prosecution of accessories.

An accessory, either before or after the fact, may, whether the principal defendant be convicted or not, or be amenable to justice or not, be indicted, convicted, and punished in the county in which he became accessory, or in which the principal defendant might be indicted. Any such accessory before the fact may be charged or indicted with such principal or separately.

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For State Law basis of this section, see WV code §61-11-7.

Section 5-12-3. Attempts; classification and penalties therefore.

Every person who attempts to commit an offense, but fails to commit or is prevented from committing it, shall, where it is not otherwise provided, be punished as follows:

If the offense attempted be punishable by confinement in jail, such person shall be guilty of a misdemeanor and, upon conviction, shall be confined in jail not more than thirty days, or fined not exceeding one hundred dollars.

For State Law basis of this section, see WV code §61-11-8.

Article 13. Child Welfare General Provisions.

Section 5-13-1. Contributing to delinquency or neglect of a child.

- (a) A person who by any act or omission contributes to, encourages or tends to cause the delinquency or neglect of any child, including, but not limited to, aiding or encouraging any such child to habitually or continually refuse to respond, without just cause, to the lawful supervision of such child's parents, guardian or custodian or to be habitually absent from school without just cause, shall be guilty of a misdemeanor, and, upon conviction thereof, shall be fined not less than fifty nor more than five hundred dollars, or imprisoned in the regional jail for a period not exceeding thirty days, or both.
- (b) In addition to any penalty provided under this section and any restitution which may be ordered by the court under WV Code 61-11A-1, the court may order any person convicted under the provisions of this section to pay all or any portion of the cost of medical, psychological or psychiatric treatment of the child resulting from the act or acts for which the person is convicted, whether or not the child is considered to have sustained bodily injury.
- (c) The provisions of this section shall not apply to any parent, guardian or custodian who fails or refuses, or allows another person to fail or refuse, to supply a child under the care, custody or control of such parent, guardian or custodian with necessary medical care, when such medical care conflicts with the tenets and practices of a recognized religious denomination or order of which such parent, guardian or custodian is an adherent or member.

For State Law basis of this section, see WV code §49-7-7.

Article 14. Miscellaneous.

Section 5-14-1. Unauthorized use of uniform, badge or other insignia; impersonation of member; penalty.

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Every person who is not a member of the municipal police department is hereby forbidden to wear, use, order to be used or worn, copy or imitate in any respect or manner the uniform prescribed for members of the municipal police department or employee of the municipality, and any person who shall violate the provisions of this article, for which no other penalty is expressly provided, and any person who shall falsely represent himself to be an officer or employee, or to be under the order or direction of any officer or employee, or who shall, unless an officer or employee thereof, wear the uniform prescribed for members of said department, or the badge or other insignia adopted or used by said department, shall be guilty of a misdemeanor, and, upon conviction thereof, shall be fined not more than two hundred dollars, or imprisoned in the regional jail for not more than thirty days, or both.

For State Law basis of this section, see WV code §15-2-17.

Section 5-14-2. Sale or gift of cigarette, cigarette paper, pipe, cigar, snuff, or chewing tobacco to persons

- (a) No person, firm, corporation or business entity may sell, give or furnish, or cause to be sold, given or furnished, to any person under the age of eighteen years:
 - (1) Any pipe, cigarette paper or any other paper prepared, manufactured or made for the purpose of smoking any tobacco or tobacco product; or
 - (2) Any cigar, cigarette, snuff, chewing tobacco or tobacco product, in any form.
- (b) Any firm or corporation that violates any of the provisions of subdivision (1) or (2), subsection (a) of this section and any individual who violates any of the provisions of subdivision (1), subsection (a) of this section is guilty of a misdemeanor and, upon conviction thereof, shall be fined twenty-five dollars for the first offense. Upon any subsequent violation at the same location or operating unit, the firm, corporation or individual shall be fined as follows: At least one hundred dollars but not more than two hundred dollars for the second offense, if it occurs within two years of the first conviction; at least two hundred fifty dollars but not more than five hundred dollars for the third offense, if it occurs within two years of the first conviction; at least two hundred fifty dollars but not more than five hundred dollars for the fourth offense, if it occurs within five years of the first conviction; and at least one thousand dollars but not more than five thousand dollars for the fifth and any subsequent offenses, if the fifth or subsequent offense occurs within five years of the first conviction.
- (c) Any individual who knowingly and intentionally sells, gives or furnishes or causes to be sold, given or furnished to any person under the age of eighteen years any cigar, cigarette, snuff, chewing tobacco or tobacco product, in any form, is guilty of a misdemeanor and, upon conviction thereof, for the first offense shall be fined not more than one hundred dollars; upon conviction thereof for a second or subsequent offense, is guilty of a misdemeanor and shall be fined not less than one hundred nor more than five hundred dollars.

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For State Law basis of this section, see WV code §16-9A-2.

Section 5-14-3. Obstructing or causing bodily injury to emergency medical service personnel; criminal penalties.

- (a) It is unlawful for any person to intentionally obstruct or interfere with any emergency medical service agency personnel engaged in the act of delivering or administering emergency medical services. Any person violating the provisions of this subsection is guilty of a misdemeanor and, upon conviction thereof, shall be fined not more than one thousand dollars or confined in the county or regional jail for a period not more than thirty days, or both.
- (b) Nothing in this section may be construed to prevent law-enforcement officials from controlling traffic and otherwise maintaining order at the scene of an accident, injury or illness where an emergency medical service agency is rendering services.
- (c) No person may willfully fail or refuse to comply with a lawful order or direction of any emergency medical service agency personnel engaged in the act of delivering or administering emergency medical services, relating to directing, controlling or regulating traffic, so long as such order or direction is conveyed by a retro-reflective hand signing device. Any person violating the provisions of this subsection is guilty of a misdemeanor and, upon conviction thereof: (1) For a first offense shall be fined not more than one hundred dollars; (2) for a second offense occurring within one year of a previous conviction shall be fined not more than two hundred dollars; and (3) for a third and subsequent offense shall be fined not more than five hundred dollars.

For State Law basis of this section, see WV code §16-4C-19.

Section 5-14-4. Person attacking or hindering or obstructing firefighter or emergency equipment; penalties.

- (a) Nothing in this article shall be construed to prevent law-enforcement officials from controlling traffic and otherwise maintaining order at the scene of a fire.
- (b) No person may willfully fail or refuse to comply with a lawful order or direction of any fire department or company or firefighter who is lawfully exercising or discharging the department's, company's or firefighter's official duty during an emergency, relating to directing, controlling or regulating traffic, so long as such order or direction is conveyed by a retro-reflective hand signing device. Any person violating the provisions of this subsection is guilty of a misdemeanor and, upon conviction thereof: (1) For a first offense shall be fined not more than one hundred dollars; (2) for a second offense occurring within one year of a previous conviction shall be fined not more than two hundred dollars; and (3) for a third and subsequent offense shall be fined not more than five hundred dollars.

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For State Law basis of this section, see WV code §29-3A-4.

Section 5-14-5. Interference with officers or employees; false information; penalty.

Any person who shall at any time intercept, molest, or interfere with any officer or employee of the Municipality while on duty, or any municipal officer or person then under the charge and direction of some officer while on duty, or who knowingly gives false or misleading information to a member of the municipal police department, shall be guilty of a misdemeanor, and, upon conviction thereof, shall be fined not less than twenty-five dollars nor more than two hundred dollars, or imprisoned in the regional jail for not more than thirty days, or both.

Section 5-14-6. Loitering and Vagrancy - Generally.

- (a) Vagrants. It shall be unlawful for any person to commit vagrancy within the municipality. The following persons shall be deemed vagrants, to-wit:
- (1) All persons wandering or loitering about the streets or public places without lawful and visible means of support, and who can give no satisfactory account of themselves or their business in such places;
 - (2) All persons who, not having visible means to maintain themselves, are found loitering or rambling about, or wandering about and loitering in sheds, public buildings, premises of common carriers, or in the open air, and not giving a good account of themselves.
 - (3) All persons who, not having visible means to maintain themselves, are found wandering about begging, or going from door to door begging, or placing themselves in the streets, or other thoroughfares or in public places, to beg or receive alms;
 - (4) All persons found loitering, on whom shall be found any instrument or thing used for the commission of burglary, or for picking locks, or pockets, and who cannot give account of their possession of the same;
 - (5) Any person found loitering around houses of ill fame, gambling houses or places, or engaged in any unlawful calling whatever, who cannot give a good account of himself;
 - (6) Any male person who lives with or is habitually in the company of a prostitute, and has no visible means of support;
 - (7) Any person who strolls about to tell fortunes or to exhibit tricks not licensed by law, or engages in the business of telling or pretending to tell fortunes, or practices palmistry, clairvoyance, or is engaged in any occupation of like kind;

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- (8) Any persons who shall come from any place outside the municipality to any place within it, and shall be found loitering and residing therein, and shall follow no labor, trade, occupation or business, and who shall have no visible means of subsistence, and can give no reasonable account of themselves or their business in such place;
 - (9) All prostitutes and professional gamblers and all keepers, occupants, lessees, tenants and pimps of houses or property used for prostitution or gambling;
 - (10) Any person who frequents a public place with intent to commit a crime, or violate a penal law of the State or Municipality.
- (b) Loitering. It shall be unlawful for any person to loiter on any of the sidewalks, public buildings, street corners or vacant lots of the City, and there conduct themselves in a manner annoying to persons nearby, passing by, or occupants of adjacent buildings.
 - (c) Begging. It shall be unlawful to solicit alms or charity, either in person or by letter without a permit from the City Recorder, or to follow the practice of soliciting alms as a habitual occupation.
 - (d) Penalty. Any person convicted under this section shall be guilty of a misdemeanor and upon conviction thereof, be fined not less than five dollars nor more than one hundred dollars.

Section 5-14-7. Minors - Curfew regulations.

- (a) Definitions. For the purpose of this section, the following terms, phrases, words and their derivations shall have the meaning given herein.
 - (1) “City” means the City of Ronceverte
 - (2) “Minor” means any person under the age of eighteen years.
 - (3) “Parent” means the natural or adoptive parent of a minor.
 - (4) “Guardian” means any person other than a parent, who has legal guardianship of a minor.
 - (5) “Custodian” means any person over the age of eighteen years who has put himself or herself in the situation of a lawful parent or guardian by assuming the obligations incident to the parental or guardian relation without going through the legal formalities necessary for adoption or guardianship.

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- (6) “Public Place” means any street, alley, highway, sidewalk, park, playground, or place to which the general public has access and right to resort for business, entertainment or other lawful purpose. A public place shall include but not be limited to any store, shop, restaurant, tavern, bowling alley, café, theater, drug store, pool room, shopping center, and any other place devoted to amusement or entertainment of the general public. It shall also include the front or immediate area of the above.
- (b) No minor shall remain idle, wander, stroll or play in any public place either on foot or cruise about by vehicle without a set destination in, about or upon any public place in the City between the hours of 10:30 p.m. to 6:00 a.m. Sunday through Saturday unless accompanied by a parent, guardian, custodian or other person having the legal care and custody of such minor, or unless the minor is in the performance of an errand or duty directed by such parent, guardian, custodian or other person having the legal care and custody of such minor, or unless the minor’s employment or other legitimate activities make it necessary to be upon such streets or public places during the night after the above specified hours.
- (c) No parent, guardian, custodian, or other person having the legal care or custody of any such minor shall allow or permit, or by inefficient control shall allow such minor, while under such legal care or custody, to go or be in or upon any of the streets or public places of the City during the hours specified in subsection b above, unless there exists a reasonable necessity therefore. However, the provisions of this subsection (c) do not apply to a minor accompanied by his parent, guardian, custodian or other person having the legal care and custody of such minor, or if the minor is on an emergency errand or duty directed by his or her parent, guardian, custodian or other person having the legal care or custody of any such minor, or if the parent, guardian, custodian or other person herein has made a missing person notification to the Ronceverte Police Department.
- (d) No person, firm or corporation operating or having charge of any public place shall knowingly permit the presence of minors under the age of eighteen between the hours of 10:30 p.m. to 6:00 a.m. Sunday through Saturday.

Nothing in this ordinance shall prevent a minor from engaging in a legitimate recreational, cultural or refreshment activity inside a building with the permission of his or her parent and where there is no objection from the manager/supervisor of the business or activity.

- (e) Any minor attending a special function or entertainment of any church, school, club or other organization that requires such minor to be out at a later hour than that called for in subsection (b) above shall be exempt from the provisions of subsection (b) provided the church, school, club or other organization shall register in advance with the Ronceverte Chief of Police or the Chief of Police’s designee to have the minors stay out to this later hour. The registrant shall state the time the function or entertainment shall end, and the minor who attend the

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function shall be required to be in their homes or usual places of abode within one half hour after the function is ended.

- (f) Procedures:
 - (1) Any police officer upon finding a minor in violation of subsection (b) hereof shall ascertain the name and address of such minor and warn the minor that he or she is in violation of curfew and shall direct the minor to proceed at once to his or her home or usual place of abode. The police officer shall report such action to the Chief of the Police Department who in turn shall notify the parents, guardian or person having custody or control of such minor.
 - (2) If such minor refuses to heed such warning or direction by any police officer or refuses to give such police officer his or her correct name and address, or if the minor has been warned on a previous occasion that he or she is in violation of curfew, he or she shall be taken to the Police Department and the parent, guardian or other adult person having the care and custody of such minor shall be notified to come and take charge of the minor. If the parent, guardian or other adult person above cannot be located or fails to come and take charge of the minor, the minor shall be released to the juvenile authorities.
- (g) Penalty. Any minor violating the provision of this section shall be dealt with in accordance with the juvenile court law and procedure. Any parent, guardian or other adult having the legal care and custody of a minor violating this section shall, after having been previously notified under subsection (f), be fined for first offense twenty-five dollars, second offense not less than fifty nor more than seventy-five dollars, any third or subsequent offense not less than seventy-five nor more than one hundred dollars. Any person, firm or corporation operating or having charge of any public place who shall violate subsection (d) shall be fined for first offense twenty-five dollars, second offense not less than fifty nor more than seventy-five, any third or subsequent offense not less than seventy-five nor more than one hundred dollars.

Section 5-14-8. Shooting across road or near building or crowd; penalty.

It shall be unlawful for any person to shoot or discharge any firearms across or in any public road in this municipality, at any time, or within four hundred feet of any schoolhouse or church, or within five hundred feet of any dwelling house, or on or near any park or other place where persons gather for purposes of pleasure, and any person violating this section is guilty of a misdemeanor: **Provided**, That any person operating a gun repair shop, licensed to do business in the state of West Virginia and duly licensed under applicable federal statutes, may be exempted from the prohibition established by this section and WV Code 61-7-12 for the purpose of test firing a firearm. The director of the department of natural resources shall prescribe such rules as may be necessary to carry out the purposes of the exemption under this section and WV Code

61-7-12 and shall ensure that any person residing in any dwelling home within five hundred feet of such gun repair shop be given an opportunity to protest the granting of such exemption.

Section 5-14-9. Prohibited discharge.

It shall be unlawful for any person to discharge any firearm or slingshot except in the lawful defense of person or property and except when necessary in the performance of a lawful duty; provided, that this section shall not apply to the use of blank ammunition at athletic events, military funerals, theatrical performances and other functions at which the use of blank ammunition is appropriate and does not constitute any danger to any person or property, nor shall this section apply where adequate safeguards are provided for the protection of persons and property. Any person convicted of this section shall be guilty of a misdemeanor and upon conviction shall be fined not more than five hundred dollars and/or confined in the regional jail not more than thirty days, or both.

Section 5-14-10. Hunting Unlawful.

It shall be unlawful for any person, at any time, within the limits of the Municipality of Ronceverte, to hunt for, trap, take, kill, wound or shoot at wild animals or wild birds with the use of any fire arm, bow and arrow, crossbow or any other weapon. Any person convicted for violation of this Ordinance shall be guilty of a misdemeanor, and upon conviction may be punished by imprisonment for not more than ten (10) days, or by a fine of not more than Five Hundred Dollars (\$500.00), or by both.

Section 5-14-11. Resisting arrest; penalty.

Any person who by threats, menaces, acts or otherwise resists the efforts of an officer or otherwise obstructs an officer lawfully engaged in the execution of his office in an attempt to place that person under arrest, he shall be guilty of a misdemeanor, and, upon conviction may be punished by imprisonment for not more than thirty (30) days, or by a fine of not more than \$500.00, or by both.

Section 5-14-12. Confidentiality and Disclosure of Return Information.

Any information obtained by and through the Reciprocal Exchange and Tax Information Agreement between the State of West Virginia and the Municipality of Ronceverte, is and shall remain confidential.

Any officer or employee of the Municipality of Ronceverte who makes an unauthorized disclosure of such information shall be guilty of a misdemeanor and, upon conviction, shall be fined no more than one thousand dollars (\$1,000) or imprisoned for not more than thirty days, or both. The term officer or employee includes a former officer, member or employee.

For the purpose of this Ordinance, "unauthorized disclosure" shall mean the release to any persons of any tax information obtained by virtue of said Reciprocal Agreement, unless (1) the person receiving the information is the authorized counsel of the State or City and shall be using

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the information only for the purpose of administering business and occupation taxes, sales tax, or liquor sales tax, or (2) the person who filed the return information has authorized, in writing, its release, thereby waiving his right to secrecy.

For State Law basis of this section, see §11-1A-23.

Section 5-14-13. Forest fire seasons; permits for fires; prohibited fires.

The periods of each year between March first and May thirty-first, inclusive, and October first and December thirty-first, inclusive, are hereby designated as forest fire seasons. No person shall during any such fire season, except between the hours of four o'clock p.m. and seven o'clock a.m. prevailing time, set on fire or cause to be set on fire any forest land, or any grass, grain, stubble, slash, debris, or other inflammable materials. Any fire set during this time shall be extinguished prior to seven o'clock a.m. prevailing time. Such prohibition of fires between seven o'clock a.m. and four o'clock p.m. prevailing time shall not be construed to include (1) small fires set for the purpose of food preparation, or providing light or warmth around which all grass, brush, stubble, or other debris has been removed for a distance of ten feet from the fire, and (2) burning which may be conducted at any time when the ground surrounding the burning site is covered by one inch or more of snow. Any person who sets or causes to be set any fire permitted by this section shall not leave such fire unattended for any period of time.

The Mayor, Chief of Police, Fire Chief or municipal employees may issue permits authorizing fires prohibited by the preceding paragraph. Such permits may be granted on such conditions and for such periods of time as the director deems necessary to prevent danger from fire to life or property, and noncompliance with any term of the permit shall be a violation of this section. Any permit which was obtained through willful misrepresentation shall be invalid. All permit holders shall take all necessary and adequate precautions to confine and control any fire permitted by the authorization; failure to take such action shall be a violation of this section and shall be justification for the director or his duly authorized representative to cancel the permit.

No burning allowed by this section may be done unless all inflammable material has been removed from around the material to be burned as a safety strip for a distance which insures that the fire will not escape and which is no less than ten feet. Any person or his agent or employee who sets or causes to be set any fire at any time in the use and occupation of any land on which the burning was being done is in violation of this section if fire escapes beyond the safety strip and shall be guilty of a misdemeanor, and, upon conviction thereof, shall be fined not less than twenty nor more than three hundred dollars, or shall be confined in the regional jail for a period of not less than ten days nor more than thirty days, or both.

For State Law basis of this section, see WV Code §20-3-5.

Section 5-14-14. False Alarms and Reports.

- (a) No person shall knowingly give or cause to be given any false alarm of fire.
- (b) No person shall knowingly give or cause to be given any false alarm of explosion or impending danger of explosion.

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- (c) No person shall knowingly give or cause to be given any false alarm of the need for police protection, assistance or investigation, or any false report to the police department.
- (d) No person shall knowingly give or cause to be given any false alarm of the need for an ambulance or medical assistance.

Section 5-14-15. Fires, Fire Prevention and Unlawful use of Fire Hydrant.

- (a) No person shall ignite, burn, or set fire to any leaves, debris, garbage or rubbish on any street or sidewalk area. It shall be unlawful to ignite or burn such materials at any other place without property safeguarding the same so that said fire will not cause damage or a nuisance to any person or property. Such fires must be thoroughly quenched and not permitted to smoke or smolder.
- (b) The Chief of the Fire Department may inspect or cause to be inspected the various buildings or premises for the purpose of ascertaining whether proper precautions are taken for the prevention of fire, and if he shall find that conditions are caused or permitted to exist which are dangerous and in his opinion likely to cause a fire in any such buildings or premises so inspected, he shall order the owner to correct said condition within a time stated in such order the owner to correct said condition within a time stated in such order and such person shall comply with such order without delay.
- (c) It shall be unlawful for any person not duly authorized to turn on or cause to flow the water from any hydrant, valve, plug or other fixture of the Municipal water supply.
- (d) Any person found guilty of this section, shall be guilty of a misdemeanor and upon conviction thereof, be fined not less than fifty dollars nor more than five hundred dollars and confined in the regional jail not more than five days, or both.

Section 5-14-16. Advertising; Bill-Posting and Handbills.

- (a) No person shall stick or post any advertisement, poster, sign or handbill or placard of any description upon any building, vehicle or upon any tree, post, fence, billboard, or any other structure of thing whatever, the private property of another without permission of the occupant or owner of the same, nor paint, mark, write, print or impress, or in any manner attaché by notice or advertisement or the name of any commodity or thing or any trade mark, symbol or figure of any kind upon anything whatever the property of another without first obtaining permission of the owner of such thing on which they desire to place such notice, advertisement, name mark or figure.

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- (b) It shall be unlawful for any person to stick, post or attach any advertisement, poster, sign, handbill or placard or any kind or description upon any telegraph, telephone, railway or electric light pole within the corporate limits or upon any public building, vehicle, voting booth, flagging, curb, tree, lawn, walk, step, stone or sidewalk, or to write, print or impress or in any manner attach any notice or advertisement of any kind upon any public building, voting booth, flagging, curb, tree, lawn, step, stone, or sidewalk, the property of the Municipality or within the street lines of the Municipality or over which the Municipality or the Council thereof has the care, custody or control, except such as may be required by the laws of the State, or upon written permission of the Mayor.
- (c) Whoever violates this article shall be deemed guilty of a misdemeanor and shall be fined not less fifty nor more than five hundred dollars; and such person shall be deemed guilty of a separate offense for each month during any portion of which any violation of this article is committed, continued or permitted.

For State Law basis of this section, see WV Code Chapter 17, Article 22.

Section 5-14-17. Discharging Fireworks.

It shall be unlawful for any person without the written permit of the State Fire Marshall to discharge within the Municipality, any squib, rocket, firework, cannon cracker or other thing charged with explosives, or to cast any fire ball or other thing charged with spirits or other combustible material. Whoever violates this article shall be deemed guilty of a misdemeanor and shall be fined not exceeding five hundred dollars or imprisoned in the regional jail not more than thirty days, or both.

Section 5-14-18. Permit for blasting.

It shall be unlawful for any person to blast with dynamite, gunpowder, or any other explosive compound, within the limits of the Municipality unless there shall first have been obtained a written permit from the City Administrator. Whoever violates this article shall be deemed guilty of a misdemeanor and shall be fined not more than five hundred dollars or imprisoned in the regional jail not more than thirty days or both.

Article 15. Municipal Park and Recreational Facilities.

Section 5-15-1. Purpose.

The purpose of this section is to secure the quiet, orderly and suitable use and enjoyment of public parks, recreational and cultural properties by the Municipal Council.

Section 5-15-2. Definitions.

For the purpose of this section, the following definition shall apply unless the context clearly indicates or requires a different meaning.

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- (a) Amusement Contraptions – any device, contrivance, gadget, machine or structure designed to test the skill or strength of the user or to provide the user with any sort of ride, lift, swing or fall experience including, but not limited to ball throwing contest device, pinball type device, electronic videos, animal ride devices, dunk tank, ball and hammer devices, trampoline devices and the like.
- (b) Area or Areas – a specified place within a park.
- (c) Beach – the part of a body of water and shore designated for swimming.
- (d) Commission – the appointed of the Parks and Recreation Commission.
- (e) Controlled Substance – any drug substance or immediate precursor in, as it may be amended from time to time.
- (f) Director – the City Administrator or City Administrator designee.
- (g) Malt Liquor – any beer, ale or other beverage made from malt by fermentation and containing not less than .5% alcohol by volume.
- (h) Motorized Recreation Vehicle – any self-propelled, off the road or all terrain vehicle including, but not limited to snowmobile, mini-bike, amphibious vehicle, motorcycle, go-kart, trail bike, dune buggy or all terrain cycle.
- (i) Natural Resources – all flora and fauna within the parks and the physical factors upon which they depend, including air, water, soil and minerals.
- (j) Park – any land or water area and all facilities thereon, under the jurisdiction, control or ownership of the Town for the recreational enjoyment of the public.
- (k) Person or Persons – individuals, firms, corporations, societies or any group or gathering whatsoever.
- (l) Pet – any animal that is tamed and domesticated and kept as a companion.
- (m) Pollutant – any substance, solid, liquid or gas, which could cause contamination of air, land or water so as to create or cause a nuisance or render unclean or noxious or un-pure so as to be actually or potentially harmful or detrimental or injurious to public health, safety or welfare, or that of wildlife or vegetation.
- (n) Property – any land, water, facilities or possessions of the municipality.
- (o) Use Permit – the written permission that must be obtained from the Parks and Recreation Commission to carry out a given activity.

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- (p) Vehicle – Every device in, upon or by which any person or property is or may be transported or drawn upon a roadway, except devices moved by human power or used exclusively upon stationary rails or tracks.
- (q) Watercraft – any contrivance used or designated for navigation on water other than seaplanes.
- (r) Weapon – any device, including, but not limited to firearms, bows, electronic weapons, slings and pellet or B-B guns from which a shot or projectile of any type is discharged or propelled by means of an explosive, gas, compressed air or other means. An Electronic Weapon means a portable device which is designed, used or intended to be used, offensively or defensively, to immobilize or incapacitate persons by the use of an electronic current.
- (s) Wildlife – any living creature, not human, wild by nature, endowed with sensation, power of voluntary motion, including but not limited to mammals, birds, fish, amphibians, reptiles, crustaceans and mollusks.
- (t) Wine – a vinous beverage containing no more than 14% alcohol by volume.

Section 5-15-3. Public Use Regulations.

- (a) Hours of operation
 - (1) Parks, cultural, recreational and amusement facilities shall be open to the public daily at hours established by the Commission. It is unlawful for any person to enter or remain in a park at any other time without a use permit, except when the park area or facility is otherwise designated by the Commission.
 - (2) The Chairman is authorized to close any park(s), cultural, recreational and amusement facilities or portion thereof at any time for the protection of park property or for the public health, safety or welfare.
- (b) Use permits
 - (1) Use permits shall be required for the exclusive or special use of all or portions of park, cultural, recreational and amusement facilities, areas, buildings or trails; for use of park, cultural, recreational and amusement facilities, areas and facilities when they are closed to the public; to conduct certain activities not normally permitted as per conditions of this section; for regulation of large group activities, as defined herein; or to reduce or eliminate certain user fees for groups, as defined herein.
 - (2) Procedures to issue use permits shall be in accordance with guidelines established by Commission resolution.

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- (3) Use permits shall be approved by the Commission.
 - (4) It is unlawful for a person or persons to violate any provisions of an approved use permit.
 - (5) It is unlawful for a person or persons to engage in any activity requiring a use permit without first obtaining the permit.
- (c) User and special use fees/modifications
- (1) User fees for entrance into park cultural, recreational and amusement facilities and special use fees for various park, cultural, recreational and amusement facilities uses shall be set by Commission resolution.
 - (2) It is unlawful for any person to use, without payment, any facility or area for which a user fee or special use fee is charged, unless payment is reduced or waived by use permit.
 - (3) Upon group request for reduction or elimination of fees, the Commission shall evaluate the request including, but not limited to the following factors:
 - (A) Charitable nonprofit;
 - (B) Property or income tax supported; and
 - (C) Educational or religious
 - (4) Use permits to reduce or eliminate fees shall be approved by the Commission.
- (d) Use by groups. Use permits shall be required for any entertainment, tournament, exhibition or any other special use which can reasonably be expected to have 20 or more person involved or potentially have a detrimental effect on park property or other park users.

Section 5-15-4. Conduct; personal behavior.

- (a) Drug and alcohol use. It is unlawful for any person to:
- (1) Use, possess or sell any controlled substance in violation of state statutes; and/or
 - (2) Serve, possess or consume any alcoholic beverage, except malt liquor and wine, within park, cultural, recreational and amusement facilities, areas

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and facilities except at areas designated by the Commission and as may permitted by state law.

- (b) Gambling. It is unlawful for any person to gamble or participate in any game of chance for a consideration of items of value, except charitable gambling as approved by the Town Council.
- (c) Disorderly conduct. It is unlawful for any person to engage in disorderly conduct as defined in West Virginia Code 61-6-1b, as it may be amended from time to time.
- (d) Property of others. It is unlawful for any person to:
 - (1) Intentionally disturb, harass or interfere with a visitor's property; and/or
 - (2) Leave or store personal property on park property without prior authorization from the Commission.
- (e) Littering. It is unlawful for any person to deposit, scatter, drop or abandon bottles, cans, broken glass, hot coals, ashes, sewage, waste or other materials in a park, cultural, recreational and amusement facilities, areas and facilities except in receptacles provided for the purposes.
- (f) Firearms; dangerous weapons; fireworks. It is unlawful for any person to:
 - (1) Have in their possession within a park, cultural, recreational and amusement facilities, areas and facilities, fire or discharge, or cause to be fired or discharged across, in, or into any portion of a park, cultural, recreational and amusement facilities, areas and facilities, any gun or firearm, spear, bow and arrow, crossbow, sling shot, air or gas weapon or any other dangerous weapon or projectile, except for purposes designated by the Commission; and/or
 - (2) Set off or attempt to set off or ignite any firecracker, fireworks, smoke bombs, rockets, black powder guns or other pyrotechnics without authorization from the Commission.
- (g) Interference with employee performance of duty. It is unlawful for any person to impersonate any employee of the Municipality or interfere with, harass or hinder any employee in the discharge of their duties.

Section 5-15-5. Operation Requirements.

- (a) Commercial use; solicitation; advertising and photography. It is unlawful for any person to:

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- (1) Solicit, sell or otherwise peddle any goods, ware, merchandise, services, liquids, or edibles in a park, cultural, recreational and amusement facilities, areas and facilities except by authorized concession or written permission granted by the Commission;
 - (2) Operate a still, motion picture, video or other camera for commercial purposes in a park, cultural, recreational and amusement facilities, areas and facilities without prior authorization from the Commission; and
 - (3) Expose, distribute or place any sign, advertisement, notice, poster or display in a park, cultural, recreational and amusement facilities, areas and facilities without authorization from the Commission.
- (b) Pets. It is unlawful for any person to:
- (1) Bring any dog, cat or other pet into a park, cultural, recreational and amusement facilities, areas and facilities unless caged or kept on a leash not more than six feet in length;
 - (2) Allow any dog, cat or other pet to enter a beach area, nature center area, refuge area, picnic area, park, cultural, recreational and amusement facilities building or other “no pet” designated areas;
 - (3) Permit a pet under his or her control to disturb, harass or interfere with any visitor, a visitor’s property or an employee;
 - (4) Tether any animal to a tree, plant, building or equipment; and/or
 - (5) Have custody or control of any dog or domestic pet in a designated area without possessing an appropriate device for cleaning up pet feces and disposing of it in a sanitary manner.
- (c) Noise; amplification of sound.
- (1) It is unlawful for any person, without the prior written authorization of the Commission, to:
 - (A) Install, use or operate within the park a loudspeaker or sound amplifying equipment in a fixed or movable position or mounted upon any sound truck for the purposes of giving instructions, directions, talks, addresses, lectures or transmitting music to any persons or assemblages of persons in or upon any place within the park, cultural, recreational and amusement facilities, areas and facilities without prior authorization from the Commission;

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- (B) Use or operate or permit the use or operation of any radio, tape player, phonograph, television set, music amplifier or other machine or device for the production or reproduction of sound in a manner as to be disturbing or a nuisance to reasonable persons of normal sensitivity within the area of audibility; and/or
 - (C) Willfully make or continue, or cause to be made or continued, any loud, unnecessary or unusual noise which disturbs the peace or quiet within any park or which causes discomfort or annoyance to any reasonable park, cultural, recreational and amusement facilities, area and facilities visitor of normal sensitivity, except for special programs at dates and times as authorized by use permit or by the Commission.
- (2) The standards which shall be considered in determining whether a violation of the provisions of this section exists shall include, but not limited to the following:
- (A) Level of the noise;
 - (B) The intensity of the noise;
 - (C) Whether the nature of the noise is usual or unusual;
 - (D) The level and intensity of the background noise, if any;
 - (E) The type of area within which the noise emanates;
 - (F) The intensity of human use of the area during the time at which the noise emanates;
 - (G) The time of the day or night the noise occurs;
 - (H) The duration of the noise; and
 - (I) Whether the noise is recurrent, intermittent or constant
- (d) Fires. It is unlawful for any person to:
- (1) Start a fire in a park, cultural, recreational and amusement facilities, areas and facilities except in a designated area, and then only in fire rings, portable stoves or grills, except by use permit;
 - (2) Leave a fire unattended or fail to fully extinguish a fire; and/or

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- (3) Scatter or leave unattended lighted matches, ashes, burning tobacco, paper or other combustible material.
- (e) Assemblies, meetings and the like. It is unlawful for any person to conduct public meetings, assemblies, worship services, entertainment, parades or demonstrations within a park, cultural, recreational and amusement facilities, areas and facilities without a use permit or prior authorization from the Commission.
- (f) Amusement contraptions. It is unlawful to bring in, set up, construct, manage or operate any amusement or entertainment contraption, device or gadget without prior authorization from the Commission.
- (g) Engine-powered models and toys. It is unlawful for any person to start, fly or use any fuel-powered model aircraft, model boat or rocket or like powered toy or model.
- (h) Unlawful occupancy. It is unlawful for any person to enter in any way any building, installation or area that may be under construction or locked or closed to public use or to enter or be upon any building, installation or area after the posted closing time or before the posted opening time or contrary to posted notice in any park.

Section 5-15-6. Protection of Property, Structures and Resources.

- (a) Disturbance of natural features. It is unlawful for any person to:
 - (1) Intentionally remove, alter, injure or destroy any tree, other plant, rock, soil or mineral;
 - (2) Dig trenches, holes or other excavations; and/or
 - (3) Introduce any plant, animal or other agent within a park, cultural, recreational and amusement facilities, areas and facilities without a use permit, and other permits as required by state and federal law.
- (b) Disturbance of wildlife. It is unlawful for any person to:
 - (1) Kill, trap, hunt, pursue or in any manner disturb or cause to be disturbed, any species of wildlife, except in nuisance situations as permitted by a use permit;
 - (2) Remove any animal, living or dead, from a park without a use permit and any animal so removed or taken contrary to the provisions of this section, is considered contraband and subject to seizure and confiscation; and/or

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- (3) Release or abandon any animal within a park, cultural, recreational and amusement facilities, areas and facilities.
- (c) Destruction or defacement. It is unlawful for any person to:
 - (1) Intentionally deface, vandalize or otherwise cause destruction to park, cultural, recreational and amusement facilities, areas and facilities property; and/or
 - (2) Intentionally deface, destroy, cover, damage or remove any placard, notice or sign or parts thereof whether permanent or temporary, posted or exhibited by the Town of Ronceverte.
- (d) Release of harmful or foreign substances. It is unlawful for any person to:
 - (1) Place any debris or other pollutant in or upon any park, cultural, recreational and amusement facilities, areas and facilities, lands or any body of water in or adjacent to a park, cultural, recreational and amusement facilities, areas and facilities or any tributary, stream, storm sewer or drain flowing into the waters; and/or
 - (2) Discharge waste water or any other wastes in a park, cultural, recreational and amusement facilities, areas and facilities except into designated containers, drains or dumping stations.

Section 5-15-7. Recreation Activities.

- (a) Camping. It is unlawful for any person to:
 - (1) Camp in a park, cultural, recreational and amusement facilities, areas and facilities except in areas provided and designated for that purpose;
 - (2) Camp without a use permit from the commission;
 - (3) Occupy camp sites in a park, cultural, recreational and amusement facilities, areas and facilities contrary to a permit or otherwise violate provisions of a use permit;
 - (4) Operate any vehicle within a campground during posted quiet hours, except in emergencies;
 - (5) Camp overnight in a park, cultural, recreational and amusement facilities, areas and facilities if under 18 years of age, unless accompanied by a parent or legal guardian, or possessing written permission from a parent or legal guardian;

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- (6) Camp in a park, cultural, recreational and amusement facilities, areas and facilities longer than ten consecutive days; and/or
 - (7) Camp in a park more than 14 days in a calendar month without approval of the Commission.
- (b) Picnicking. It is unlawful for any person to:
- (1) Assume exclusive use of a reservation picnic site without a use permit;
 - (2) Use a portion of a reservation picnic area without a permit if the area is reserved by permitted group;
 - (3) Conduct picnic activity at reservation picnic sites contrary to a use permit or otherwise violate provisions of a use permit; and/or
 - (4) Set up temporary shelters, such as tents, tarps, canopies and other devices other than in designated camping areas without authorization by a use permit.
- (c) Swimming. It is unlawful for any person to:
- (1) Wade or swim within a park, cultural, recreational and amusement facilities, areas and facilities except at pools or beaches designated for the use and only at the times when an authorized lifeguard is on duty unless otherwise explicitly signed and designated by the Commission;
 - (2) Wade, swim or use any pool or beach in a park, cultural, recreational and amusement facilities, areas and facilities without proper attire;
 - (3) Take glass bottles or glass containers of any kind into designated pool or beach areas;
 - (4) Use outside of a pool or beach area so designated, any inner tube, life raft or other inflatable or buoyant object or floatation device intended to support a person, except persons are permitted to use a U.S. Coast Guard approved life jacket or vest when properly attached; and/or
 - (5) Fail to obey posted pool or beach safety rules as established by Commission resolution for each pool or beach.
- (d) Boating. It is unlawful for any person to:
- (1) Launch or land any watercraft upon any waters within a park, cultural, recreational, and amusement facilities, areas and facilities except as designated locations and times;

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- (2) Leave any watercraft unattended on land or in the water, except in designated areas;
 - (3) Operate any watercraft in a designated swimming area or other prohibited area;
 - (4) Operate a watercraft in a park, cultural, recreational and amusement facilities, areas and facilities; and/or
 - (5) Tow a person on water skis, surf board, knee board, inner tube or jet ski in a designated swimming area, boat launching area or other unauthorized area or enter a designated swimming area on the device.
- (e) Fishing. It is unlawful for any person to:
- (1) Fish in a park, cultural, recreational and amusement facilities, areas and facilities in violation of any provision of state law; and/or
 - (2) Fish in a prohibited area.
- (f) Horses and horseback riding. It is unlawful for any person to ride, lead or allow a horse within a park except as authorized by the Commission by use permit.
- (g) Bicycling. It is unlawful for any person to:
- (1) Operate a bicycle, except on roadways and designated trails and except as close to the right side of roadways and designated trails as conditions permit;
 - (2) Operate a bicycle, in violation of state law as it may be amended from time to time; and/or
 - (3) Ride or operate a bicycle, except in a prudent and careful manner and at speed faster than is reasonable and safe with regard to the safety of the operator and other persons in the immediate area.

Section 5-15-8. Traffic Regulations.

- (a) Motorized recreation vehicles. It is unlawful for any person to operate a motorized recreation vehicle within a park, cultural, recreational and amusement facilities, areas and facilities except in areas and at times as designated by the Commission.
- (b) Vehicle operation. It is unlawful for any person to:

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- (1) Operate a vehicle at a speed in excess of 25 mph or posted speed limits;
 - (2) Operate any vehicle within a park, cultural recreational and amusement facilities, areas and facilities except upon roadways, parking areas or other designated locations therefore;
 - (3) Operate a vehicle within a park in violation of posted regulations, or municipal traffic codes or orders or directions of traffic officers authorized to direct traffic;
 - (4) Operate a vehicle in a careless or reckless manner;
 - (5) Operate a vehicle which emits excessive or unusual noise, noxious fumes, dense smoke or other pollutants; and/or
 - (6) Fail to yield right of way to pedestrians and other trail users.
- (c) Parking vehicles. It is unlawful for any person to:
- (1) Park or leave a vehicle standing, except in a designated area and then only in a manner so as not to restrict normal traffic flow;
 - (2) Leave a vehicle standing after posted closing hours without a valid use permit;
 - (3) Park in a space designated for handicapped parking only, except with handicapped vehicle license or permit;
 - (4) Park or leave a vehicle without a boat trailer in a parking space designated for vehicles with boat trailers; and/or
 - (5) Park a vehicle with a boat trailer, except in designated vehicle/boat-trailer parking areas.
- (d) Maintenance of personal vehicles. It is unlawful for any person to wash, polish, grease, change oil or perform other maintenance on any vehicle on park, cultural, recreational and amusement facilities, areas and facilities property, except in emergencies.

Section 5-15-9. Enforcement.

- (a) The municipal police department, shall enforce the provisions of this ordinance and may issue citation, and eject from any park, cultural, recreational and amusement facilities, areas and facilities person acting in violation of the provisions of this section. They shall have the authority to seize, confiscate and

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impound any substance, plant, animal, vehicle or other article which upon probable cause, is found to be used or possessed in violation of this section.

- (b) The Commission shall have the right to adopt by resolution additional rules and regulations relative to this section.
- (c) The municipal police department shall have the authority to impound pets found in violation of this section and shall collect an impoundment fee, plus a per diem fee, required for impounding animals which may be in force with the county.
- (d) The Commission shall have the authority to revoke for good cause any use permit. Any permit reservation may be revoked upon violation by the permittee of any ordinance, rules or regulation of Commission or the municipality of Ronceverte, West Virginia.

Section 5-15-10. Penalty.

Any person violating the provisions of this section is guilty of a misdemeanor and upon conviction thereof, shall be fined not less than one hundred dollars (\$100.00) nor more than three hundred dollars (\$300.00) or confined in the regional jail for not less than five nor more than thirty days or both fined and confined.

Article 99. General Penalty.

Section 5-99-1. General Penalty.

Any person violating any of the provisions of this chapter where not specific penalty is provided is guilty of a misdemeanor and, upon conviction thereof, shall: for first offense, be fined not more than one hundred dollars or confined in the regional jail for not more than ten days or both fined and confined, second offense shall be fined not more than two hundred dollars or confined in the regional jail for not more than twenty days or both fined and confined; any third or subsequent offense shall be fined not more than five hundred dollars or confined in the regional jail for not more than thirty days or both fined and confined.

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