

Ronceverte Municipal Code

CHAPTER 3 VEHICLES AND TRAFFIC

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Article 1. In General.

For State law regarding authority of Municipal Council to provide for the use of the Municipality's streets, roads and ways, see WV Code, §§8-12-2, 8-12-5, subsection (4). Regarding authority to adopt traffic regulations not inconsistent with State Law, see WV Code, §§17C-2-7, 17C-2-8, 17C-6-3, 17C-8-5. Regarding motor vehicle registration, certificate of title, etc., see WV Code, §17A-1-1 et seq. Regarding operators' and chauffeurs' licenses, see WV Code, §17B-1-1 et seq. Regarding traffic regulations and laws of the road, see WV Code, §17C-1-1 et seq. Regarding State motor vehicle safety responsibility law, see WV Code, §17D-1-1 et seq. Regarding State inspection of vehicles, see WV Code, §17C-16-1 et seq.

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### **Section 3-1-1. Short title.**

This chapter shall be known and may be cited as the Traffic Ordinance of Ronceverte, West Virginia, or simply as the Traffic Ordinance.

### **Section 3-1-2. Definitions.**

For the purposes of this chapter, the following words and phrases shall have the meanings respectively ascribed to them by this section:

Generally, words, phrases, and terms not defined in this section but which are defined in any section of chapters 17 through 17D of the Code of West Virginia shall have the meanings respectively ascribed to them in those sections of the Code of West Virginia unless, in any instance, the meaning would not conform to the context in which the word, phrase or term is used.

- Authorized emergency vehicle. "Authorized emergency vehicle" means vehicles of the Fire Department, police vehicles, and such ambulances and emergency vehicles of municipal departments or public service corporations as are designated or authorized by the State commissioner of motor vehicles or the Chief of Police of an incorporated Municipality, and such privately owned ambulances and emergency vehicles as are designated by the State commissioner of motor vehicles.
- Bus. "Bus" means every motor vehicle designed for carrying more than seven passengers and used for the transportation of persons; and every motor vehicle, other than a taxicab, designed and used for the transportation of persons for compensation.
- Business district. See Ronceverte Zoning Ordinance, article IV sections 401 and 402.
- Crosswalk. "Crosswalk" includes: (A) That part of a roadway at an intersection included within the connections of the lateral lines of the sidewalks on opposite sides of the highway measured from the curbs, or, in the absence of curbs, from the edges of the traversable roadway; and (B) any portion of a roadway at an intersection or elsewhere distinctly indicated for pedestrian crossing by lines or other markings on the surface.
- Driver. "Driver" means every person who drives or is in actual physical control of a vehicle.

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- Farm tractor. "Farm tractor" means every motor vehicle designed and used primarily as a farm implement for drawing plows, mowing machines and other implements of husbandry.
- Gross weight. "Gross weight" means the weight of a vehicle without load plus the weight of any load thereon.
- Intersection. "Intersection" includes: (A) The area embraced within the prolongation or connection of the lateral curb lines, or, if none, then the lateral boundary lines of the roadways of two highways which join one another at, or approximately at, right angles, or the area within which vehicles traveling upon different highways joining at any other angle may come in conflict; and (B) where a highway includes two roadways thirty feet or more apart, then every crossing of each roadway of such divided highway by an intersecting highway also includes two roadways thirty feet or more apart, then every crossing of two roadways of such highways shall be regarded as a separate intersection.
- Laned roadway. "Laned roadway" means a roadway which is divided into two or more clearly marked lanes for vehicular traffic.
- Metal tire. "Metal tire" means every tire the surface of which in contact with the highway is wholly or partly of metal or other hard non resilient material.
- Motorcycle. "Motorcycle" means every motor vehicle having a seat or saddle for the use of the rider and designed to travel on not more than three wheels in contact with the ground, but excluding a tractor.
- Motor-driven cycle. "Motor-driven cycle" means every motorcycle, including every motor scooter, with a motor which produces not to exceed five horsepower, and every bicycle with motor attached.
- Motor vehicle. "Motor vehicle" means every vehicle which is self-propelled.
- Owner. "Owner" means a person who holds the legal title of a vehicle, or, in the event a vehicle is the subject of an agreement for the conditional sale or lease thereof, with the right of purchase upon performance of the conditions Stated in the agreement and with an immediate right of possession vested in the conditional vendee or lessee, or, in the event the mortgagor of a vehicle is entitled to possession, then such conditional vendee or lessee or mortgagor shall be deemed the owner for the purpose of this chapter.
- Park. "Park," when prohibited, means the standing of a vehicle, whether occupied or not, otherwise than temporarily for the purpose of and while actually engaged in loading or unloading.

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- Parking meters. "Parking meters" shall mean and include any patented mechanical device or contrivance having timing meters and used for timing the parking of vehicles on the public streets or the Municipal controlled parking lots.
- Pedestrian. "Pedestrian" means any person afoot.
- Pneumatic tire. "Pneumatic tire" means every tire in which compressed air is designed to support the load.
- Pole trailer. "Pole trailer" means every vehicle without motive power designed to be drawn by another vehicle and attached to the towing vehicle by means of a reach, or pole, or by being boomed or otherwise secured to the towing vehicle, and ordinarily used for transporting long or irregularly shaped loads such as poles, pipes, or structural members capable, generally, of sustaining themselves as beams between the supporting connections.
- Police officer. "Police officer" means every person authorized to direct or regulate traffic or to make arrests for violations of traffic regulations.
- Private road or driveway; private property. (A) "Private road" or "driveway" means every way or place in private ownership and used for vehicular travel by the owner and those having express or implied permission from the owner, but not by other persons. (B) "Private property" means real estate in private ownership without regard to the manner in which it is used.
- Residence district. See Ronceverte Zoning Ordinance, article 4, section 402.
- Right of way. "Right of way" means the privilege of the immediate use of the highway.
- Road tractor. "Road tractor" means every motor vehicle designed and used for drawing other vehicles and not so constructed regarding carrying any load thereon either independently or any part of the weight of a vehicle or load so drawn.
- Roadway. "Roadway" means that portion of a highway improved, designed, or ordinarily used for vehicular travel, exclusive of the berm or shoulder. In the event a highway includes two or more separate roadways, the term "roadway" as used herein shall refer to any such roadway separately, but not to all such roadways collectively.
- Safety zone. "Safety zone" means the area or space officially set apart within a roadway for the exclusive use of pedestrians and which is protected or is so marked or indicated by adequate signs as to be plainly visible at all times while set apart as a safety zone.

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- School bus. "School bus" means every motor vehicle owned by a public or governmental agency and operated for the transportation of children to or from school or privately owned and operated for compensation for the transportation of children to or from school.
- School grounds. "School grounds" includes the land on which a school is built together with such other land used by students for play, recreation or athletic events while attending school.
- Semi-trailer. "Semi-trailer" means every vehicle with or without motive power, other than a pole trailer, designed for carrying persons or property and for being drawn by a motor vehicle and so constructed that some part of its weight and that of its load rests upon or is carried by another vehicle.
- Solid tire. "Solid tire" means every tire of rubber or other resilient material which does not depend upon compressed air for the support of the load.
- Stop. "Stop," when required, means complete cessation from movement.
- Stop, stopping, or standing. "Stop", "stopping," or "standing," when prohibited, means any stopping or standing of a vehicle, whether occupied or not, except when necessary to avoid conflict with other traffic or in compliance with the directions of a police officer or traffic control sign or signal.
- Through highway. "Through highway" means every highway or portion thereof at the entrances to which vehicular traffic from intersecting highways is required by law to stop before entering or crossing the same and when stop signs are erected as provided in this chapter.
- Traffic. "Traffic" means pedestrians, ridden or herded animals, vehicles, street cars, and other conveyances, either singly or together, using any highway for purposes of travel.
- Traffic control devices. "Traffic control devices" means all signs, signals, markings, and devices not inconsistent with this chapter placed or erected by authority of a public body or official having jurisdiction, for the purpose of regulating, warning or guiding traffic.
- Traffic control signal. "Traffic control signal" means any device, whether manually, electrically, or mechanically operated, by which traffic is alternately directed to stop and to proceed.
- Trailer. "Trailer" means every vehicle with or without motive power, other than a pole trailer, designed for carrying persons or property and for being drawn by a motor vehicle and so constructed that no part of its weight rests upon the towing vehicle.

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- Truck. "Truck" means every motor vehicle designed, used or maintained primarily for the transportation of property.
- Truck tractor. "Truck tractor" means every vehicle designed and used primarily for drawing other vehicles and not so constructed regarding carrying a load other than a part of the weight of the vehicle and load so drawn.
- Vehicle. "Vehicle" means every device in, upon, or by which any person or property is or may be transported or drawn upon a highway, except devices moved by human power or used exclusively upon stationary rails or tracks.

*For State Law basis of this section, see WV Code, Chapter 17C, art. 1.*

### **Section 3-1-3. State Laws part of chapter.**

All the laws of the State of West Virginia and all rules, regulations and orders made by the State Public Service Commission and the State Road Commission, or either of them, insofar as the laws, rules, regulations and orders may relate or apply to traffic on or the use of the public streets, roadways or alleys of incorporated villages, towns and cities shall be deemed to be and are hereby adopted and made a part of this chapter, and any violations of such laws, rules, regulations and orders shall be construed as adopting or incorporating herein any law, rule, regulation or order, the violation of which constitutes a felony.

If any penalty provided for any violation of this chapter conflicts with the penalty required by the laws of this State for the violation, then the penalty fixed by the State Law for the violation constituting a misdemeanor is the penalty for violation of this chapter.

### **Section 3-1-4. Applicability of chapter generally.**

The provisions of this chapter regarding the operation of vehicles refer exclusively to the operation of vehicles upon the streets and public ways of the Municipality except where a different place is specifically referred to in a given article or section hereof.

## **Article 2. Obedience to and Effect of Traffic Laws.**

### **Section 3-2-1. Required obedience to traffic laws.**

It is unlawful for any person to do any act forbidden or refuse or fail to perform any act required of the person as provided in this chapter.

*For State Law basis of this section, see WV Code, §17C-2-2.*

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### **Section 3-2-2. Administration and enforcement of chapter; closing or limiting use of streets, roadways or alleys; issuance of permits.**

- (a) When not otherwise specifically provided in any case, the Chief of Police and, under his direction, the police and traffic officers of this Municipality shall administer and enforce the provisions of this chapter.

*For State Law regarding duty of municipal police officers to render assistance to State Department of Public Safety in the enforcement of State traffic laws, see WV Code, §17C-2-3, subsection (A).*

- (b) For the purpose of implementing the provisions of this chapter and carrying into effect the policies of the Municipal Council thereunder, the Chief of Police is hereby authorized and empowered, when he deems it advisable for the public safety and convenience, to close any street or part thereof to all traffic, or to traffic of certain classes or descriptions or to direct the traffic thereon or divert or direct the course of traffic thereon, for such periods of time as he may deem advisable, in which cases he shall cause the necessary traffic control signs, signals, markings or devices controlling such traffic to be placed or installed by the Police Department.
- (c) Whenever, pursuant to any of the provisions of this chapter, a permit is required for any purpose and no other issuing authority is specified, such permit shall be issued by the Chief of Police. Any permit issued by the Chief of Police pursuant to the foregoing authority shall not be valid for a period of time exceeding twelve months from the issuance thereof, nor shall such a permit be valid for more than any lesser period of time which may be specified in the permit. Any permit so issued may be revoked by the Chief of Police at any time for good cause. The Municipal Council may grant permits for longer periods of time.
- (d) Upon taking any action authorized by subsection (b) or (c) of this section, the Chief of Police shall, without undue delay, report such action to the Mayor, who may give such instructions to the Chief of Police with respect thereto as he may deem to be in the best interest of the Municipality; and the Mayor may also submit such report of the Chief of Police to a regular or special meeting of the Municipal Council or to a majority of the members thereof and obtain their advice and instructions to be given the Chief of Police.

### **Section 3-2-3. Required obedience to police officers.**

No person may willfully fail or refuse to comply with any lawful order or direction of a police officer.

*For State Law basis of this section, see WV Code, §17C-2-3, subsection (c)*

### **Section 3-2-4. Authority of firemen and rescue squad members to direct traffic.**

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- (a) Members of the Fire Department may direct or assist the police in directing traffic at or in the immediate vicinity of a fire or explosion and, while so acting, shall have all the authority of police officers.
- (b) Members of a duly chartered rescue squad may direct or assist the police in directing traffic at or in the immediate vicinity of an accident and, while so acting, shall have all the authority of police officers.

### **Section 3-2-5. Public officers and employees to obey; exceptions.**

- (a) The provisions of this chapter applicable to the drivers of vehicles upon the streets, roadways or alleys within this Municipality apply to the drivers of all vehicles owned or operated by the United States, the State of West Virginia, or any county, municipality, town, district or any other political subdivision of the State of West Virginia, except as provided in this section and subject to specific exceptions as are set forth in this chapter with reference to authorized emergency vehicles.
- (b) Unless specifically made applicable, the provisions of this chapter do not apply to teams, persons, vehicles and other equipment while actually engaged in work upon the surface of any public street but do apply to those persons and vehicles when traveling to and from work.

*For State Law basis of this section, see WV Code, §17C-2-4.*

### **Section 3-2-6. Authorized emergency vehicles.**

- (a) The driver of an authorized emergency vehicle, when responding to an emergency call or when in the pursuit of an actual or suspected violator of the law or when responding to but not upon returning from a fire alarm, may exercise the privileges set forth in this section, but subject to the conditions herein stated.
- (b) The driver of an authorized emergency vehicle may:
  - (1) Park or stand, irrespective of the provisions of this chapter;
  - (2) Proceed past a red or stop signal or stop sign, but only after slowing down as may be necessary for safe operation;
  - (3) Exceed the speed limits so long as he does not endanger life or property;
  - (4) Disregard regulations governing direction of movement or turning in specified directions.

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- (c) The exemptions herein granted to an authorized emergency vehicle shall apply only when the driver of any said vehicle while in motion, sounds audible signal by bell, siren or exhaust whistle as may be reasonably necessary, and when the vehicle is equipped with at least one lighted flashing lamp, as authorized by section 17C-15-26 of the Code of West Virginia, which is visible under normal atmospheric conditions from a distance of five hundred feet to the front of such vehicle, except that an authorized emergency vehicle operated as a police vehicle need not be equipped with or display a warning light visible from in front of the vehicle.
- (d) The foregoing provisions shall not relieve the driver of an authorized emergency vehicle from the duty to drive with due regard for the safety of all persons, nor shall the provisions protect the driver from the consequences of his reckless disregard for the safety of others.

*For State Law basis of this section, see WV Code, §17C-2-5.*

### **Section 3-2-7. Traffic laws apply to persons riding animals or driving animal drawn vehicles.**

Every person riding or driving an animal or driving any animal drawn vehicle upon a roadway shall be granted all of the rights and shall be subject to all of the duties applicable to a driver of a vehicle by this chapter, except those provisions of this chapter which by their very nature can have no application.

*For State Law basis of this section, see WV Code, §17C-2-6.*

### **Section 3-2-8. Chapter not to interfere with rights of owners of real property.**

Nothing in this chapter may be construed to prevent the owner of real property used by the public for purposes of vehicular travel by permission of the owner and not as matter of right from prohibiting that use, or from requiring other or different or additional conditions than those specified in this chapter, or otherwise regulating the use as may seem best to the owner.

*For State Law basis of this section, see WV Code, §17C-2-9.*

## **Article 3. Special Antitheft Laws**

### **Section 3-3-1. Unlawful taking of vehicle.**

- a) It is unlawful for any person to drive a vehicle, not his own, without consent of the owner thereof, and with intent temporarily to deprive said owner of his possession of such vehicle, without intent to steal the vehicle. The consent of the owner of a vehicle to its taking or driving shall not in any case be presumed or implied because of such owner's consent on a

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previous occasion to the taking or driving of such vehicle by the same or a different person. Any person who assists in, or is a party or accessory to, or an accomplice in any such unauthorized taking or driving, shall be guilty of a violation of this section.

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

*For State Law basis of this section, see WV Code, §17A-8-4.*

### **Section 3-3-2. Injuring or tampering with vehicle.**

Any person who, either individually or in association with one or more persons, willfully injures or tampers with any vehicle or breaks or removes any part or parts of or from a vehicle without the consent of the owner, is guilty of a misdemeanor.

Any person who, with intent to commit any malicious mischief, injury, or other crime, climbs into or upon a vehicle whether it is in motion or at rest or with like intent attempts to manipulate any of the levers, starting mechanism, brakes, or other mechanism or device of a vehicle while the same is at rest and unattended or with like intent sets in motion any vehicle while the same is at rest and unattended, is guilty of a misdemeanor.

Any person convicted of violating this section is be guilty of a misdemeanor, and upon conviction thereof, may be confined in jail for a period of not more than thirty days or be fined not more than five hundred dollars or both.

*For State Law basis of this section, see WV Code, §17A-8-6.*

### **Section 3-3-3. Unlawful retention of rented or leased vehicle after notice.**

It shall be unlawful for any person who, after renting or leasing a motor vehicle under an agreement in writing which provides for the return of the vehicle to a particular place at a particular time, shall fail to return the vehicle to that place within the time specified, and is thereafter served with a written notice, or upon whom oral demand is thereafter personally made, to return the vehicle to the place specified in the written agreement within seventy-two hours from the time of the service of notice or personal communication of such demand, and who fails to return the vehicle to the lessor within said period. The notice hereinabove provided for may be served in the same manner that any other notice may now be served under existing statutes.

Any person convicted of violating this section is guilty of a misdemeanor, and upon conviction thereof, may be confined in jail for a period of not more than thirty days or be fined not more than five hundred dollars or both.

*For State Law basis of this section, see WV Code, §17A-8-10.*

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### **Article 4. Traffic Signs, Signals and Markings.**

*For State Law regarding authority of local authorities to place and maintain traffic control devices on highways under their jurisdiction, see WV Code, §17C-3-3. Regarding traffic control devices generally, see WV Code, §17C-3-1 et seq.*

#### **Section 3-4-1. Duties of Police Department.**

The Police Department shall supervise the placement, erection, installation, maintenance and repair of such markings, signs, signals, lights and other traffic control devices as the Municipal Council may deem necessary to properly control traffic within the Municipality, in conformity with the rules and regulations of the State road commission.

*For State Law requiring all traffic control devices erected by local authorities to conform to State manual and specifications, see WV Code, §17C-3-3.*

#### **Section 3-4-2. Fire lanes, on private property devoted to public use.**

- (a) The marking of fire lanes, on private property devoted to public use, shall be approved by the Fire Chief as well as by the Chief of Police.
- (b) Parking of motor vehicles or otherwise obstructing fire lanes is prohibited at all times.

#### **Section 3-4-3. Effect of previously installed traffic control devices.**

All traffic control devices, signals, signs and markings heretofore installed by authority of the Municipal Council and which are in place on the effective date of this Code shall be deemed to be official traffic control devices until such time as they may be removed by authority of the Municipal Council, and until they are so removed, it shall be unlawful for any person to fail to comply with any instruction or directive indicated by any such official traffic control device.

#### **Section 3-4-4. Obedience to traffic control devices; official signs to be in proper position, etc.**

- (a) The driver of any vehicle shall obey the instructions of any official traffic control device applicable thereto placed in accordance with the provisions of this chapter or State Law, unless otherwise directed by a police officer, subject to the exceptions granted the driver of an authorized emergency vehicle in this chapter.
- (b) Any person violating the provisions of this section is guilty of a misdemeanor and, upon conviction thereof, shall be fined not more than one hundred dollars; upon a second conviction within one year thereafter,

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shall be fined not more than two hundred dollars; and upon a third or subsequent conviction, shall be fined not more than five hundred dollars.

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

*For State Law basis of this section, see WV Code, §17C-3-4.*

### **Section 3-4-5. Obedience to traffic control instructions at site of street or highway construction or maintenance; penalty.**

- (a) The driver of any vehicle shall obey the traffic control instructions of any law-enforcement officer or persons authorized by the State Commissioner of Highways or by the Municipal Council to operate traffic control devices, act as flagmen, or operate authorized vehicles engaged in work at or near the site of street or highway construction maintenance work, for the purpose of regulating, warning or guiding traffic, subject to the exceptions granted the driver of an authorized emergency vehicle in this chapter.
- (b) Any person failing to comply with the requirements of this section is guilty of a misdemeanor and, upon conviction thereof, shall be fined not more than one hundred dollars; upon a second conviction within one year thereof, shall be fined not more than two hundred dollars; and upon a third or subsequent conviction, shall be fined not more than five hundred dollars.

*For State Law basis of this section, see WV Code, §17C-3-4a.*

### **Section 3-4-6. Traffic violations in construction zones; posting requirements; criminal penalty.**

- (a) At each and every location where street or highway construction work is to be conducted, a sign shall be posted at least one thousand feet from the construction site, or as close to one thousand feet from the construction site as is practicable given the location of the site when workers are present, notifying all motorists as to the speed limit and displaying the words “construction work”.
- (b) Any person who exceeds any posted speed restriction or traffic restriction at a construction site referred to in subsection (a) of this section by less

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than fifteen miles per hour is guilty of a misdemeanor and, upon conviction thereof, shall be fined not more two hundred dollars.

- (c) Any person who exceeds any posted speed restriction or traffic restriction at a construction site referred to in subsection (a) of this section by fifteen miles per hour or more is guilty of a misdemeanor and, upon conviction thereof, shall be fined not more than two hundred dollars or confined in a county or regional jail not more than twenty days, or both.
- (d) Nothing in this section shall be construed to preclude prosecution of any operator of a motor vehicle who commits a violation of any other provisions of this code for such violation.

*For State Law basis of this section, see WV Code, §17C-3-4b.*

### **Section 3-4-7. Traffic control signal legend.**

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

- (a) Green alone or "Go."
  - (1) Vehicular traffic facing the signal may proceed straight through or turn right or left unless a sign at such place prohibits either such turn. But vehicular traffic, including vehicles turning right or left, shall yield the right of way to other vehicles and to pedestrians lawfully within the intersection or an adjacent crosswalk at the time the signal is exhibited.
  - (2) Pedestrians facing the signal may proceed across the street or alley within any marked or unmarked crosswalk.
- (b) Yellow alone or "Caution" when shown following the green or "Go" signal.
  - (1) Vehicular traffic facing the signal is thereby warned that the red or "Stop" signal will be exhibited immediately thereafter and such vehicular traffic shall not enter or be crossing the intersection when the red or "Stop" signal is exhibited.
  - (2) Pedestrians facing the signal are thereby advised that there is insufficient time to cross the street, roadway or alley, and any pedestrian then starting to cross shall yield the right of way to all vehicles.

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- (c) Red alone or "Stop."
  - (1) Vehicular traffic facing the signal shall stop before entering the crosswalk on the near side of the intersection or, if none, then before entering the intersection and shall remain standing until the green or "Go" is shown alone.
  - (2) No pedestrian facing the signal shall enter the street or alley unless he can do so safely and without interfering with any vehicular traffic.
- (d) Red with green arrow.
  - (1) Vehicular traffic facing the signal may cautiously enter the intersection only to make the movement indicated by the arrow but shall yield the right-of-way to pedestrians lawfully within a crosswalk and to other traffic lawfully using the intersection.
  - (2) No pedestrian facing the signal shall enter the street or alley unless he can do so safely and without interfering with any vehicular traffic.
- (e) In the event an official traffic control signal is erected and maintained at a place other than an intersection, the provisions of this section are applicable. Any stop required shall be made at a sign or marking on the pavement indicating where the stop shall be made, but in the absence of any sign or marking, the stop shall be made at the signal.

*For State Law basis of this section, see WV Code, §17C-3-5.*

### **Section 3-4-8. Pedestrian walk and wait signals.**

- (a) Whenever special pedestrian control signals exhibiting the words "Walk" or "Wait" are in place the signals shall indicate as follows:
  - (1) Walk. Pedestrians facing such signal may proceed across the street or alley in the direction of the signal and shall be given the right of way by the drivers of all vehicles.
  - (2) Wait. No pedestrian shall start to cross the street or alley in the direction of the signal, but any pedestrian who has partially completed his crossing on the walk signal shall proceed to a sidewalk or safety island while the wait signal is showing.
- (b) Any person violating the provisions of this section is guilty of a misdemeanor and upon conviction thereof, shall be fined not more than one hundred dollars; upon a second conviction within one year thereafter,

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shall be fined not more than two hundred dollars; and upon a third or subsequent conviction, shall be fined not more than five hundred dollars.

*For State Law basis of this section, see WV Code, §17C-3-6.*

### **Section 3-4-9. Flashing signals.**

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

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

*For State Law basis of this section, see WV Code, §17C-3-7.*

### **Section 3-4-10. Display of unauthorized devices, signals, signs or markings**

- (a) No person may place, maintain or display upon or in view of street any unauthorized traffic control device or traffic control signal, or any unauthorized sign, signal, marking, or device which purports to be or is an imitation of or resembles an official traffic control device or railroad sign or signal, or which attempts to direct the movement of traffic, or which hides from view or interferes with the effectiveness of any official traffic control device or any railroad sign or signal, and no person may place or maintain upon any street any traffic control device bearing thereon any commercial advertising. This section does not prohibit the erection upon any private property adjacent to a street of signs giving useful directional information and of a type that cannot be mistaken for official signs. (See section 505, General Sign Regulations, Ronceverte Zoning Ordinance.)
- (b) Every such prohibited device, signal, sign or marking is hereby declared to be a public nuisance and the Chief of Police is hereby empowered to remove the same or cause it to be removed without notice.

*For corresponding provisions of State traffic control laws, see WV Code, §17C-3-8.*

### **Section 3-4-11. Interference with official traffic control devices or railroad signs or signals.**

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No person may without lawful authority attempt to or, in fact, alter, deface, injure, knock down or remove any official traffic control device or any inscription, shield, or insignia thereon, or any other part thereof.

*For State Law basis of this section, see WV Code, §17C-3-9.*

### **Section 3-4-12. Play streets.**

Whenever official traffic control signs or markers are erected indicating any street or part thereof as a play street, no person may drive a vehicle upon any street or portion thereof except drivers of vehicles having business or whose residences are within the closed area, in which event, any driver shall exercise the greatest care in driving upon the street or portion thereof.

### **Section 3-4-13. Driving on newly paved, repaired or closed streets prohibited.**

When official traffic control signs or markers are erected indicating that any street or part thereof is newly paved or repaired or is closed to traffic, no person shall drive any vehicle over any such street until it is officially opened to traffic.

## **Article 5. Issuance of License, Expiration, and Renewal.**

### **Section 3-5-1. Drivers must be licensed.**

- (a) No person, except those hereinafter expressly exempted, may drive any motor vehicle upon a street or highway in this Municipality, as used in 8-24-1 of West Virginia State Code, unless the person has a valid driver's license under the provisions of 17B-2-1 of the West Virginia State Code.
- (b) Any person violating the provisions of this section is guilty of a misdemeanor and, upon conviction thereof, shall be fined not more than five hundred dollars; and upon a second or subsequent conviction, shall be fined not more than five hundred dollars or confined in the county or regional jail not more than thirty days, or both.

*For State Law basis of this section, see WV Code, §17B-2-1.*

### **Section 3-5-2. Persons exempt from license.**

The following persons are exempt from license hereunder:

- (1) Any person while operating a motor vehicle in the armed services of the United States while in the performance of his official duties;
- (2) A nonresident who is at least sixteen years of age and who has in his immediate possession a valid driver's license issued to the

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person in the person's home state or country may operate a motor vehicle in this Municipality only as a noncommercial driver for a period not to exceed ninety days in any one calendar year;

- (3) A nonresident of this State who is at least sixteen years of age, who has in the person's immediate possession a valid driver's license issued to the person in the person's home state or country and who is employed in this state, or owns, maintains or operates a place or places of business in this state, or engages in any trade, profession or occupation in this state, in addition to the driving privileges extended under subdivision (2) of this section, may operate a motor vehicle in this Municipality only as a operator noncommercial driver in traveling to and from the person's place or places of employment, place or places of business or place or places at which the person engages in such trade, profession or occupation and in the discharge of the duties of his employment, business, trade, profession or occupation if such duties are such that, if performed by a resident of the State of West Virginia over the age of eighteen years of age, the resident would not be required under the provisions of chapter 17B of the Code of West Virginia to obtain a Class A, B, C or D driver's license;
- (4) A nonresident who is at least eighteen years of age and who has in his or her immediate possession a valid commercial driver's license issued to the person in his or her home state or country and which meets the requirements of the Federal Commercial Motor Vehicle Act of 1986, Title XI of Public Law 99-570 may operate a motor vehicle in this Municipality either as a commercial driver subject to the age limits applicable to commercial driver in this State, or as a noncommercial driver subject to the limitations imposed on nonresident drivers in subdivisions (2) and (3) of this section;
- (5) Any person who is a student, properly enrolled and registered in an accredited school, college or university in this state, who is at least sixteen years of age and who has in his immediate possession a valid driver's license issued to the person in the person's home state, notwithstanding the limitations of subdivisions (2) and (3) of this subsection, may operate a motor vehicle in this Municipality only as a noncommercial driver: Provided, That the state of which the person is a resident shall extend the same privileges to residents of this State. This exemption shall be cancelled immediately when the student is graduated from school, college or university or is expelled or ceases to be a student.

*For State Law basis of this section, see WV Code, §17B-2-2*

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### **Section 3-5-3. License to be carried and exhibited on demand.**

- (a) Every licensee shall have his or her driver's license in such person's immediate possession at all times when operating a motor vehicle and shall display the same upon demand of a police officer.
- (b) Any person violating the provisions of this section is guilty of a misdemeanor and upon conviction thereof, shall be fined not more than five hundred dollars: Provided, That no person charged with violating this section shall be convicted if such person produces in court or at the office of the arresting officer a driver's license issued to the person and valid at the time of such person's arrest.

*For State Law basis of this section, see WV Code, §17B-2-9.*

## **Article 6. Violations of License Provisions.**

### **Section 3-6-1. Driving while license suspended or revoked; penalty.**

- (a) Any person who drives a motor vehicle on any public highway of this State at a time when his or her privilege to do so has been lawfully suspended or revoked by this State or any other jurisdiction is, for the first offense, guilty of a misdemeanor and, upon conviction thereof, shall be fined not less than one hundred dollars nor more than five hundred dollars; for the second offense, the person is guilty of a misdemeanor and, upon conviction thereof, shall be confined in a county or regional jail for a period of ten days and, in addition to the mandatory jail sentence, shall be fined not less than one hundred dollars nor more than five hundred dollars.
- (b) Any person who drives a motor vehicle on any public highway of this State at a time when his or her privilege to do so has been lawfully suspended for driving while under the age of twenty-one years with an alcohol concentration in his or her blood of two hundredths of one percent or more by weight, but less than eight hundredths of one percent, by weight, is guilty of a misdemeanor and upon conviction thereof, shall be confined in a county or regional jail for twenty-four hours or shall be fined not less than fifty dollars nor more than five hundred dollars, or both.

*For State Law basis of this section, see WV Code, §17B-4-3.*

### **Section 3-6-2. Permitting unauthorized person to drive.**

It is unlawful for any person to authorize or knowingly permit a motor vehicle owned by him or under his control to be driven upon any street, roadway or alley within this Municipality by any person who is not authorized.

*For State Law basis of this section, see WV Code, §17B-4-4.*

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### **Section 3-6-3. Penalties.**

Unless another penalty is provided in this article, every person convicted of a violation of any provision of this article shall be punished by a fine of not more than five hundred dollars or by imprisonment for not more than thirty days, or both fined and imprisoned.

*For State Law basis of this section, see WV Code, §17B-5-1.*

### **Article 7. Original and Renewal of Registration; Issuance of Certificates of Title.**

#### **Section 3-7-1. Misdemeanor to violate provisions of article; penalty.**

- (a) It is unlawful for any person to drive or move or for an owner knowingly to permit to be driven or moved upon any highway any vehicle of a type required to be registered under this article which is not registered or for which a certificate of title has not been issued or applied for or for which the appropriate fee has not been paid when and as required under this article, except as otherwise permitted by the provisions of this chapter: Provided, That in the event of the sale of a vehicle by a person other than a registered dealer, the person purchasing the same may, for a period of not more than ten days, operate the vehicle under the registration of its previous owner and display the registration thereof: Provided, however, That he or she shall have and display on the demand of any proper officer the consent in writing of the previous owner so to use the registration.
- (b) Unless otherwise provided for in this article, any person violating the provisions of this article is guilty of a misdemeanor and, upon conviction thereof, shall be fined not more than five hundred dollars; and upon a second or subsequent conviction thereof, shall be fined not more than five hundred dollars, or confined in the county or regional jail not more than thirty days, or both.

*For State Law basis of this section, see WV Code, §17A-3-1.*

#### **Section 3-7-2. Registration of vehicles of new residents.**

- (a) Every owner of a motor vehicle, trailer or other vehicle, shall, within thirty days after taking up residence in the State, apply to the West Virginia Division of Motor Vehicles and obtain registration and title for the vehicle.
- (b) For the purposes of this chapter there is a rebuttable presumption that a natural person is a resident of this State if any of the following elements exist including, but not limited to:
  - (1) The person is registered to vote in this State.

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

“Resident” does not include a person who is attending a college, university, or other educational institution in this State, if the person has a domicile in another state and has a valid operator's license and vehicle registration issued by the state of domicile. “Resident” also does not include members of the armed forces that are stationed in West Virginia providing that their vehicles are properly registered in their state of residence or a member of the armed forces stationed in another state or country providing that their vehicles are properly registered in that state or county.

A corporation, association, partnership, company or firm whose principal place of business is located within this State is a resident of this State.

The provisions of this section shall not apply to vehicles registered under proportional registration agreement.

*For State Law basis of this section, see WV Code, §17A-3-1a.*

### **Section 3-7-3. Vehicle registration plate and registration certificate required; penalty.**

- (a) It shall be unlawful for any person to operate on any Municipal street any motor vehicle, trailer, semi-trailer or pole trailer which, by the laws of West Virginia, is required to be registered unless such vehicle displays thereon a currently valid registration plate in the manner as required by the laws of this State, subject to the provisions of article 5, chapter 17A of the Code of West Virginia regarding permits to nonresident vehicle owners.
- (b) It shall be unlawful for any person to operate an any Municipal street any vehicle required to be registered under the provisions of subsection (a) of this section unless he has in his immediate possession the registration certificate pursuant to which the above mentioned vehicle registration

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plate was issued; and he shall display such registration certificate to any police officer upon request so to do.

- (c) Every person convicted of a violation of the provisions of this section shall be punished by a fine of not more than five hundred dollars, or by imprisonment for not more than thirty days, or both fined and imprisoned.

*For State Law basis of this section, see WV Code, §§17A-3-1, 17A-3-2.*

### **Section 3-7-4. Registration card to be signed, carried and exhibited on demand.**

Every owner upon receipt of a registration card shall write his signature thereon with pen and ink in the space provided. Every such registration card shall at all times be carried in the vehicle to which it refers or shall be carried by the person driving or in control of such vehicle who shall display the same upon demand of a police officer or any officer or employee of the department.

*For State Law basis of this section, see WV Code, §17A-3-13.*

### **Section 3-7-5. Display of registration plates; penalty.**

- (a) Registration plates issued for vehicles required to be registered hereunder shall be attached to the rear thereof.
- (b) Every registration plate shall at all times be securely fastened in a horizontal position to the vehicle for which it is issued so as to prevent the plate from swinging and at a height of not less than twelve inches from the ground, measuring from the bottom of such plate, in a place and position to be clearly visible and shall be maintained free from foreign materials and in a condition to be clearly legible.
- (c) Every person convicted of a violation of the provisions of this section shall be punished by a fine of not more than five hundred dollars or by imprisonment for not more than thirty days, or by both such fine and imprisonment.

*For State Law basis of this section, see WV Code, §17A-3-15.*

### **Section 3-7-6. Expiration of registration and certificates of title.**

- (a) Every vehicle registration under this chapter and every registration card and registration plate issued under this chapter expires at midnight on the last day of the month designated by the Commissioner of the State Division of Motor Vehicles: Provided, That the Commissioner may extend the period during which the registration plates may be used.

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Certificates of title need not be renewed annually but remain valid until canceled by the Division for cause or upon a transfer of any interest shown in the vehicle.

- (b) Notwithstanding the provisions of this section or of any provision of this chapter, the Commissioner shall adopt a staggered registration system whereby the registration of Class A motor vehicles is for a period of twelve consecutive calendar months, the expiration dates of the registrations to be staggered throughout the year: Provided, That on or after the first day of July, one thousand nine hundred ninety-seven, the Commissioner shall also offer an optional two-year registration system, whereby the registration of all vehicles shall be for a period of twenty-four consecutive calendar months, the expiration dates of the registrations to be staggered throughout the year. Under this option, all annual fees due at the time of registration shall be multiplied by two.
  - (1) On or after the first day of July, one thousand nine hundred ninety-seven, all Class A motor vehicles as defined in section one, article ten, Chapter 17A of the Code of West Virginia shall be registered for a period of twelve or twenty-four consecutive calendar months. There hereby are established twelve registration periods, each of which shall start on the first day of each calendar month of the year and shall end on the last day of the twelfth month from date of beginning. The period ending on the thirty-first day of January is designated the first period; that ending on the twenty-eighth (twenty-ninth) day of February is designated the second; that ending on the thirty-first day of March is designated the third; that ending on the thirtieth day of April is designated the fourth; that ending on the thirty-first day of May is designated the fifth; that ending on the thirtieth day of June is designated the sixth; that ending on the thirty-first day of July is designated the seventh; that ending on the thirty-first day of August is designated the eighth; that ending on the thirtieth day of September is designated the ninth; that ending on the thirty-first day of October is designated the tenth; that ending on the thirtieth day of November is designated the eleventh; and that ending on the thirty-first day of December is designated the twelfth.
  - (2) All Class A motor vehicles, which are operated for the first time upon the public highways of this State to and including the fifteenth day of any given month are subject to registration and payment of the fee for the twelve or twenty-four-month period commencing the first day of the month of operation. All Class A motor vehicles operated for the first time upon the public highways of this State on and after the sixteenth day of any given month are subject to registration and payment of fee for the twelve or twenty-

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four-month period commencing the first day of the month of the next following calendar month.

- (c) On or before the first day of July, one thousand nine hundred ninety-six, all Class T and Class R vehicles shall be registered for a maximum period of three years or portion thereof based on the number of years remaining in the three-year period designated by the commissioner.
- (d) On or before the first day of July, two thousand, all Class C trailers shall be registered for the duration of the owner's interest in the trailer and shall not expire until either sold or otherwise permanently removed from the service of the owner.

*For State Law basis of this section, see WV Code, §17A-3-16.*

### **Section 3-7-7. Notice of change of address or name.**

- (a) Whenever any person after making application for or obtaining the registration of a vehicle or a certificate of title shall move from the address named in the application or shown upon a registration card or certificate of title the person shall within ten days thereafter notify the WV Division of Motor Vehicles in writing of the old and new addresses.
- (b) Whenever any person, after making application for or obtaining the registration of a vehicle or a certificate of title, is assigned a new address by the United States postal service or other legally constituted authority, the person shall notify the division in writing of the old and new address and of the registration or title number of the vehicle held by the person. The notification of change of address shall be made at least ten days prior to the last date on which mail with the old address is deliverable by the United States Postal Service.
- (c) Whenever the name of any person who has made application for or obtained the registration of a vehicle or a certificate of title is thereafter changed by marriage or otherwise the person shall within ten days notify the division of the former name and new name upon a form prescribed by the commissioner. The notification shall be accompanied by application for retitle under the new name.
- (d) The provisions of 17A-11-1 of West Virginia state code relating to imprisonment do not apply to persons who violate the provisions of this section.

*For State Law basis of this section, see WV Code, §17A-3-18.*

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### **Article 8. Offenses Against Registration Laws and Suspension or Revocation of Registration.**

#### **Section 3-8-1. Operation of vehicles without evidences of registration; use of temporary facsimile; penalty.**

- (a) No person shall operate, nor shall an owner knowingly permit to be operated, upon any highway any vehicle required to be registered under this article unless there shall be attached thereto and displayed thereon or shall be in the possession of the operator when and as required by this chapter a valid registration card and registration plate or plates issued therefore by the West Virginia Division of Motor Vehicles for the current registration year, except as otherwise expressly permitted in this chapter.
- (b) In the event that the registration plate or plates originally issued are lost, destroyed or stolen, a temporary facsimile of the plate or plates, showing the number of the same, may be attached to the vehicle by the owner for a period of not more than fifteen days, or until a new plate or plates are issued by the division, whichever is earlier: Provided, That no such facsimile shall be used and no such vehicle shall be driven upon the highways of this state, until the owner shall have notified in writing the West Virginia State Police of the loss of such registration plate or plates.
- (c) Any person violating the provisions of this section is guilty of a misdemeanor and, upon conviction thereof, shall be fined not more than five hundred dollars; and upon a second or subsequent conviction thereof, shall be fined not more than five hundred dollars, or confined in the county or regional jail not more than thirty days, or both.

*For State Law basis of this section, see WV Code, §17A-9-2.*

#### **Section 3-8-2. Improper use of evidences of registration.**

No person shall lend to another any certificate of title, registration card, registration plate, special plate, or permit issued to him if the person desiring to borrow the same would not be entitled to the use thereof, nor shall any person knowingly permit the use of any of the same by one not entitled thereto, nor shall any person display upon a vehicle any registration card, registration plates, or permit not issued for such vehicle or not otherwise lawfully used thereon under this chapter. Any violation of this section is a misdemeanor.

*For State Law basis of this section, see WV Code §17A-9-3.*

### **Article 9. Inspection of Vehicles.**

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### **Section 3-9-1. Vehicles not to operate without required equipment or in unsafe condition.**

No person shall drive or move on any street of this Municipality any motor vehicle, trailer, semi-trailer or pole trailer, or any combination thereof, unless the equipment upon any and every such vehicle is in good working order and adjustment as required by chapter 17C of the Code of West Virginia and said vehicle is in safe mechanical condition as not to endanger the driver or other occupant or any person upon such street or alley.

*For State Law basis of this section, see WV Code, §17C-16-1.*

### **Section 3-9-2. False motor vehicle inspection certificates.**

- (a) No person shall make, issue, or knowingly use any imitation or counterfeit of an official certificate of inspection.
- (b) No person shall display or cause or permit to be displayed upon a vehicle any certificate of inspection and approval knowing that same to be fictitious or issued for another vehicle or issued without an inspection having been made.

*For State Law basis of this section, see WV Code, §17C-16-8*

### **Section 3-9-3. Operation without certificate or failure to produce certificate; penalty for misdemeanor.**

It is a misdemeanor for any owner or operator, or both owner and operator, of any vehicle required to be inspected under West Virginia State Code 17C-16-4(a) to operate or permit the vehicle to be operated without having displayed thereon a currently valid certificate of inspection and approval or fail to produce same upon demand of any police officer.

Every person convicted of a misdemeanor for operating a vehicle without having displayed thereon a current and valid certificate of inspection and approval or for failure to produce such certificate upon demand of any police officer shall be punished by a fine of not more than one hundred dollars: Provided, That any person who obtains an inspection and a current and valid certificate of inspection and who within five days of the issuance of a citation for a violation of the provisions of this section, provides a receipt of inspection to and makes the vehicle so operated available for examination by a court of competent jurisdiction, shall not be guilty of a violation of the provisions of this section: Provided, however, That the misdemeanor penalty shall be imposed if the certificate of inspection has not been valid for a period exceeding three months prior to the date of issuance of a citation.

*For State Law basis of this section, see WV Code, §17C-16-9.*

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### **Article 10. Speed Restrictions.**

#### **Section 3-10-1. Speed limitations generally; penalty.**

- (a) No person shall drive a vehicle on a street in this Municipality at a speed greater than is reasonable and prudent under the existing conditions and the actual and potential hazards. In every event speed shall be so controlled as may be necessary to avoid colliding with any person, vehicle, or other conveyance on or entering the streets or alleys in compliance with legal requirements and the duty of all persons to use due care.
- (b) Where no special hazard exists that requires lower speed for compliance with subsection (a) of this section, the speed of any vehicle not in excess of the posted speed limit or the limit specified in this section shall be lawful, but any speed in excess of posted speed limit or the limit specified in this subsection shall be unlawful. The following speed limits apply:
  - (1) Fifteen miles per hour when passing a school building or school grounds abutting on a street during school recess or while children are going to or leaving school during opening or closing hours.
  - (2) Twenty-five miles per hour in any business or residential district.
- (c) The driver of every vehicle shall, consistent with the requirements of subsection (a) of this section, drive at an appropriate reduced speed when approaching and crossing an intersection, when traveling upon any narrow or winding street, and when special hazards exist with respect to pedestrians or other traffic, or by reason of weather or street conditions.
- (d) 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; upon a second conviction within one year thereafter, shall be fined not more than two hundred dollars; and upon a third or subsequent conviction within two years thereafter, shall be fined not more than five hundred dollars: Provided, That if the third or subsequent conviction is based upon a violation of the provisions of this section where the offender exceeded the speed limit by fifteen miles per hour or more, then upon conviction, shall be fined not more than five hundred dollars or confined in the county or regional jail for not more than thirty days, or both.

*For State Law basis of this section, see WV Code, §17C-6-1.*

#### **Section 3-10-2. Minimum speed regulations; penalty.**

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- (a) No person shall drive a motor vehicle at a reduced speed that impedes the normal and reasonable movement of traffic except when reduced speed is necessary for safe operation or in compliance with law.
- (b) 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; upon a second conviction within one year thereafter, shall be fined not more than two hundred dollars; and upon a third or subsequent conviction within two years thereafter, shall be fined not more than five hundred dollars.

*For State Law basis of this section, see WV Code, §17C-6-3a.*

### **Section 3-10-3. Special speed limitations on vehicles not designed for carrying passengers and equipped with pneumatic tires.**

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

- (1) Twenty miles per hour in any business district;
- (2) Twenty-five miles per hour in any residence district;
- (3) Trucks licensed at eight thousand pounds gross vehicle weight or less shall be permitted the same speed as passenger cars.

*For State Law basis of this section, see WV Code, §17C-6-4.*

### **Section 3-10-4. Special speed limitations; penalty.**

- (a) No person shall drive any vehicle equipped with other than pneumatic tires at a speed greater than a maximum of ten miles per hour.
- (b) Any person violating the provisions of this section is guilty of a misdemeanor and, upon conviction thereof, shall be fined not more than one hundred dollars; upon a second conviction within one year thereafter, shall be fined not more than two hundred dollars; and upon a third or subsequent conviction, shall be fined not more than five hundred dollars.

*For State Law basis of this section, see WV Code, §17C-6-5.*

### **Section 3-10-5. Charging violations; rule in civil actions.**

- (a) In every charge of violation of any speed regulations in this chapter the complaint and the summons or notice to appear, shall specify the speed at which the defendant is alleged to have driven, and shall also include the

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speed applicable within the area and, in the event another charge is made of violation of any other provision of this chapter, the complaint and the summons or notice to appear shall also specify the other offense alleged to have been committed.

- (b) The provisions of this chapter declaring speed limitations shall not be construed to relieve the plaintiff in any civil action from the burden of proving negligence on the part of the defendant as the proximate cause of an accident.

*For State Law basis of this section, see WV Code, §17C-6-6.*

### **Section 3-10-6. Prima facie evidence of speed by devices employing microwaves; placing of signs relative to radar.**

The speed of a motor vehicle may be proved by evidence obtained by use of any device designed to measure and indicate or record the speed of a moving object by means of microwaves, when such evidence is obtained by members of the department of public safety (West Virginia State Police), by police officers of this Municipality, and by the sheriff and his deputies of Greenbrier County, West Virginia. The evidence so obtained shall be accepted in the municipal court as prima fascia evidence of the speed of the vehicle.

In order to inform and educate the public generally that speed of motor vehicles operating within the Municipality is being tested by radar mechanisms, the Municipal police force shall locate and place suitable and informative, stationary and movable signs at strategic points on and along the streets, roadways or alleys of the Municipality giving notice to the public that such radar mechanisms are in use.

*For State Law basis of this section, see WV Code, §17C-6-7.*

### **Section 3-10-7. Racing on streets and highways prohibited; legislative findings; penalties; mandatory revocation of licenses.**

The legislature hereby determines and finds that the racing of motor vehicles on the public streets and highways of this State, whether within or in excess of the lawful speed limit (much of which racing is commonly referred to as “drag racing”), is extremely dangerous to life, limb and property, and that such racing is an ever increasing problem. It is, therefore, hereby declared to be the public policy of this State to prohibit all forms of such racing on the public streets and highways, and to provide criminal penalties for, and require the revocation of the operator’s or chauffeur’s license or nonresident privilege to drive of, those persons who are convicted of engaging in or aiding or abetting such racing.

- (a) It shall be unlawful for any person to engage in, or aid or abet by serving as lookout or timer or in any other capacity whatever, any speed race, as

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defined herein, on any public street or highway in this Municipality. For the purposes of this subdivision, “speed race” means:

- (1) The operation of a motor vehicle in speed acceleration competition with another motor vehicle or motor vehicles; or
  - (2) The operation of a motor vehicle in speed acceleration competition against time; or
  - (3) The operation of a motor vehicle in speed competition with another motor vehicle or motor vehicles where the speed exceeds the lawful speed limit.
- (b) Any person who violates the provisions of subdivision (a) of this section is guilty of a misdemeanor, and, upon conviction thereof, shall be punished for a first offense by a fine of not less than fifty dollars nor more than one hundred dollars, and for a second offense by a fine of not less than fifty dollars nor more than five hundred dollars, or by imprisonment for not less than six days nor more than thirty days, or by both such fine and imprisonment.
- (c) Whenever a person is convicted for a violation of the provisions of subdivision (a) of this section, which conviction has become final, the commissioner of motor vehicles shall in addition to the penalties hereinbefore provided, forthwith:
- (1) For a first offense, revoke the operator’s or chauffeur’s license of such person, or such person’s privilege to drive in this State if he be a nonresident, for a period of six months;
  - (2) For a second offense occurring within a two-year period, revoke the operator’s or chauffeur’s license of such person, or such person’s privilege to drive in this State if he be a nonresident, for a period of two years

*For State Law basis of this section, see WV Code, §17C-6-8.*

### **Section 3-10-8. Slow-moving vehicle emblem.**

- (a) All farm machinery and other machinery, including all road construction machinery except when guarded by flagmen or flares, designed to operate at twenty-five miles per hour or less, traveling on a public highway or street during day or night, shall display a triangular slow-moving emblem on the rear of the vehicle.
- (b) The commissioner shall adopt standards and specifications for design and the position of mounting the slow-moving vehicle emblem, as well as

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requirements for certification of conformance. The requirements of the emblem shall be in addition to any lighting devices required by law.

- (c) The use of this emblem shall be restricted to the use specified in subsection (a) and its use on any other type of vehicle or as a clearance marker on wide machinery or on stationary objects on the highway is prohibited.

*For State Law basis of this section, see WV Code, 17C-6-9.*

### **Article 11. Driving on Right Side of Roadways, Overtaking, and Passing, etc.**

#### **Section 3-11-1. Driving on right side of roadway; exceptions.**

- (a) Upon all streets of the Municipality of sufficient width, a vehicle shall be driven upon the right half of the roadway, except as follows:
  - (1) When overtaking and passing another vehicle proceeding in the same direction under the rules governing the movement;
  - (2) When the right half of a roadway is closed to traffic while under construction or repairs;
  - (3) Upon a roadway designated and sign posted for one-way traffic.
- (b) Upon all roadways any vehicle proceeding at less than the normal speed of traffic at the time and place and under the conditions then existing shall be driven in the right hand lane then available for traffic, or as close as practicable to the right hand curb or edge of the roadway, except when overtaking and passing another vehicle proceeding in the same direction or when preparing for a left turn at an intersection or into a private road or driveway.
- (c) Any person violating the provisions of this section is guilty of a misdemeanor and upon conviction thereof, shall be fined not more than one hundred dollars; upon a second conviction within one year thereafter, shall be fined not more than two hundred dollars; and upon a third or subsequent conviction, shall be fined not more than five hundred dollars.

*For State Law basis of this section, see WV Code, §17C-7-1.*

#### **Section 3-11-2. Passing vehicles proceeding in opposite directions.**

- (a) Drivers of vehicles proceeding in opposite directions shall pass each other to the right, and upon streets having width for not more than one line of

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traffic in each direction each driver shall give to the other at least one-half of the main traveled portion of the street as nearly as possible.

- (b) Any person violating the provisions of this section is guilty of a misdemeanor and upon conviction thereof, shall be fined not more than one hundred dollars; upon a second conviction within one year thereafter, shall be fined not more than two hundred dollars; and upon a third or subsequent conviction, shall be fined not more than five hundred dollars.

*For State Law basis of this section, see WV Code, §17C-7-2.*

### **Section 3-11-3. Overtaking and passing vehicle proceeding in same direction - Passing on the left generally.**

- (a) The following rules shall govern the overtaking and passing of vehicles proceeding in the same direction, subject to the limitations, exceptions and special rules hereinafter stated.
  - (1) The driver of a vehicle overtaking another vehicle proceeding in the same direction shall give an audible signal and pass to the left thereof at a safe distance and shall not again drive to the right side of the roadway until safely clear of the overtaken vehicle.
  - (2) Except when overtaking and passing on the right is permitted, the driver of an overtaken vehicle shall give way to the right in favor of the overtaking vehicle on audible signal and shall not increase the speed of his vehicle until completely passed by the overtaking vehicle.
- (b) Any person violating the provisions of this section is guilty of a misdemeanor and upon conviction thereof, shall be fined not more than one hundred dollars; upon a second conviction within one year thereafter, shall be fined not more than two hundred dollars; and upon a third or subsequent conviction, shall be fined not more than five hundred dollars.

*For State Law basis of this section, see WV Code, §17C-7-3.*

### **Section 3-11-4. Same - When overtaking on the right is permitted.**

- (a) The driver of a vehicle may overtake and pass upon the right of another vehicle only under the following conditions:
  - (1) When the vehicle overtaken is making or about to make a left turn;
  - (2) Upon a street with unobstructed pavement not occupied by parked vehicles of sufficient width for two or more lines of moving vehicles in each direction;

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- (3) Upon a one-way street, or upon any street on which traffic is restricted to one direction of movement, where the street is free from obstructions and of sufficient width for two or more lines of moving vehicles.
- (b) A driver of a vehicle may overtake and pass another vehicle upon the right only under conditions permitting such movement in safety. In no event shall such movement be made by driving off the pavement or main traveled portion of the street or in lieu of the posted speed limit.

*For State Law basis of this section, see WV Code, §17C-7-4.*

### **Section 3-11-5. Same - Limitations on overtaking on the left.**

- (a) No vehicle shall be driven to the left side of the center of the roadway in overtaking and passing another vehicle proceeding in the same direction unless such left side is clearly visible and is free of oncoming traffic for a sufficient distance ahead to permit such overtaking and passing to be completely made without interfering with the safe operation of any vehicle approaching from the opposite direction or any vehicle overtaken. In every event the overtaking vehicle must return to the right hand side of the roadway before coming within one hundred feet of any vehicle approaching from the opposite direction.
- (b) Any person violating the provisions of this section is guilty of a misdemeanor and upon conviction thereof, shall be fined not more than one hundred dollars; upon a second conviction within one year thereafter, shall be fined not more than two hundred dollars; and upon a third or subsequent conviction, shall be fined not more than five hundred dollars.

*For State Law basis of this section, see WV Code, §17C-7-5.*

### **Section 3-11-6. Same - Further limitations on driving to left of center of roadway.**

- (a) No vehicle shall at any time be driven to the left side of the roadway under the following conditions:
  - (1) When approaching the crest of a grade or upon a curve in the street where the driver's view is obstructed within such distance as to create a hazard in the event another vehicle might approach from the opposite direction;
  - (2) When approaching within one hundred feet of or traversing any intersection;

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- (3) When the view is obstructed upon approaching within one hundred feet of any bridge.
- (b) The foregoing limitation shall not apply upon a one-way street.
- (c) Any person violating the provisions of this section is guilty of a misdemeanor and upon conviction thereof, shall be fined not more than one hundred dollars; upon a second conviction within one year thereafter, shall be fined not more than two hundred dollars; and upon a third or subsequent conviction, shall be fined not more than five hundred dollars.

*For State Law basis of this section, see WV Code, §17C-7-6.*

### **Section 3-11-7. Same – No-passing zones; penalty.**

- (a) The commissioner of highways is hereby authorized to determine those portions of any highway where overtaking and passing or driving to the left of the roadway would be especially hazardous and may by appropriate signs or markings on the roadway indicate the beginning and end of such zones and when such signs or markings are in place and clearly visible to an ordinarily observant person every driver of a vehicle shall obey the directions thereof.
- (b) Any person violating the provisions of this section is guilty of a misdemeanor and, upon conviction thereof, shall be fined not more than one hundred dollars; upon a second conviction within one year thereof, shall be fined not more than two hundred dollars; and upon a third or subsequent conviction, shall be fined not more than five hundred dollars.

*For State Law basis of this section, see WV Code, §17C-7-7.*

### **Section 3-11-8. One-way streets ; penalty.**

- (a) The Commissioner of Highways and Municipal Council may designate any highway or any separate street under its jurisdiction for one-way traffic and shall erect appropriate signs giving notice thereof.
- (b) Upon a street or roadway designated and signposted for one-way traffic a vehicle shall be driven only in the direction designated.
- (c) Any person violating the provisions of this section is guilty of a misdemeanor and, upon conviction thereof, shall be fined not more than one hundred dollars; upon a second conviction within one year thereafter, shall be fined not more than two hundred dollars; and upon a third or subsequent conviction, shall be fined not more than five hundred dollars.

*For State Law basis of this section, see WV Code, §17C-7-8.*

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### **Section 3-11-9. Driving on roadways laned for traffic; penalty.**

- (a) Whenever any street or alley has been divided into two or more clearly marked lanes for traffic the following rules in addition to all others consistent herewith shall apply:
- 1) A vehicle shall be driven as nearly as practicable entirely within a single lane and shall not be moved from such lane until the driver has first ascertained that the movement can be made with safety.
  - 2) Upon a street which is divided into three lanes a vehicle shall not be driven in the center lane which is clearly marked as a left turn lane except in preparation for a left turn or where such center lane is at the time allocated exclusively to traffic moving in the direction the vehicle is proceeding and is signposted to give notice of the allocation.
- (b) Any person violating the provisions of this section is guilty of a misdemeanor and upon conviction thereof, shall be fined not more than one hundred dollars; upon a second conviction within one year thereafter, shall be fined not more than two hundred dollars; and upon a third or subsequent conviction, shall be fined not more than five hundred dollars.

*For State Law basis of this section, see WV Code, §17C-7-9.*

### **Section 3-11-10. Following too closely.**

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

*For State Law basis of this section, see WV Code, §17C-7-10.*

## **Article 12. Turning and Starting and Signals on Stopping and Turning.**

### **Section 3-12-1. Required position and method of turning at intersection.**

The driver of a vehicle intending to turn at an intersection shall do so as provided in this division.

*For State Law basis of this section, see WV Code, §17C-8-1.*

### **Section 3-12-2. Right turns; penalty.**

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

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- (b) Any person violating the provisions of this section is guilty of a misdemeanor and upon conviction thereof, shall be fined not more than one hundred dollars; upon a second conviction within one year thereafter, shall be fined not more than two hundred dollars; and upon a third or subsequent conviction, shall be fined not more than five hundred dollars.

*For State Law basis of this section, see WV Code, §17C-8-2.*

### **Section 3-12-3. Left turns on two-way streets; penalty.**

- (a) At any intersection where traffic is permitted to move in both directions on each street entering the intersection, an approach for a left turn shall be made in that portion of the right half of the street nearest the center line thereof, and by passing to the right of the center line where it enters the intersection and after entering the intersection the left turn shall be made so as to leave the intersection to the right of the center line of the street being entered. Whenever practicable, the left turn shall be made in that portion of the intersection to the left of the center of the intersection.
- (b) Any person violating the provisions of this section is guilty of a misdemeanor and upon conviction thereof, shall be fined not more than one hundred dollars; upon a second conviction within one year thereafter, shall be fined not more than two hundred dollars; and upon a third or subsequent conviction, shall be fined not more than five hundred dollars.

*For State Law basis of this section, see WV Code, §17C-8-3.*

### **Section 3-12-4. Left turns on other than two-way roadways; penalty.**

- (a) At any intersection where traffic is restricted to one direction on one or more of the roadways, the driver of a vehicle intending to turn left at an intersection shall approach the intersection in the extreme left hand lane lawfully available to traffic moving in the direction of travel of the vehicle and after entering the intersection the left turn shall be made so as to leave the intersection, as nearly as practicable, in the left hand lane lawfully available to traffic moving in that direction upon the roadway being entered.
- (b) Any person violating the provisions of this section is guilty of a misdemeanor and upon conviction thereof, shall be fined not more than one hundred dollars; upon a second conviction within one year thereafter, shall be fined not more than two hundred dollars; and upon a third or subsequent conviction, shall be fined not more than five hundred dollars.

*For State Law basis of this section, see WV Code, §17C-8-4.*

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### **Section 3-12-5. Required obedience to traffic control devices which may specify different course for turns.**

The Ronceverte City Council, may cause traffic control markers, buttons, or signs to be placed within or adjacent to intersections and thereby require and direct that a different course from that specified in this chapter be traveled by vehicles turning at an intersection, and when markers, buttons, or signs are so placed no driver of a vehicle shall turn a vehicle at an intersection other than as directed and required by the markers, buttons, or signs.

*For State Law basis of this section, see WV Code, §17C-8-5.*

### **Section 3-12-6. Turning on curve or crest of grade prohibited; penalty.**

- (a) No vehicle shall be turned so as to proceed in the opposite direction upon any curve, or upon the approach to, or near the crest of a grade, where the vehicle cannot be seen by the driver of any other vehicle approaching from either direction within five hundred feet.
- (b) Any person violating the provisions of this section is guilty of a misdemeanor and upon conviction thereof, shall be fined not more than one hundred dollars; upon a second conviction within one year thereafter, shall be fined not more than two hundred dollars; and upon a third or subsequent conviction, shall be fined not more than five hundred dollars.

*For State Law basis of this section, see WV Code, §17C-8-6.*

### **Section 3-12-7. Starting parked vehicles.**

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

*For State Law basis of this section, see WV Code, §17C-8-7.*

### **Section 3-12-8. Turning movements and required signals; penalty.**

- (a) No person shall turn a vehicle at an intersection unless the vehicle is in proper position upon the street or alley as required in sections 3-12-2 through 3-12-5 of this chapter, or turn a vehicle to enter a private road or driveway or otherwise to turn a vehicle from a direct course or move right or left upon a street unless and until such movement can be made with reasonable safety. No person shall so turn any vehicle without giving an appropriate signal in the manner hereinafter provided in the event any other traffic may be affected by the movement.

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- (b) A signal of intention to turn right or left when required shall be given continuously during not less than the last one hundred feet traveled by the vehicle before turning.
- (c) No person shall stop or suddenly decrease the speed of a vehicle without first giving an appropriate signal in the manner provided herein to the driver of any vehicle immediately to the rear when there is opportunity to give a signal.
- (d) Any person violating the provisions of this section is guilty of a misdemeanor and upon conviction thereof, shall be fined not more than one hundred dollars; upon a second conviction within one year thereafter, shall be fined not more than two hundred dollars; and upon a third or subsequent conviction, shall be fined not more than five hundred dollars.

*For State Law basis of this section, see WV Code, §17C-8-8.*

### **Section 3-12-9. Signals by hand and arm or signal device.**

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

*For State Law basis of this section, see WV Code, §17C-8-9.*

### **Section 3-12-10. Method of giving hand and arm signals.**

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

- (1) Left turn. Hand and arm extended horizontally.
- (2) Right turn. Hand and arm extended upward.
- (3) Stop or decrease speed. Hand and arm extended downward.

*For State Law basis of this section, see WV Code, §17C-8-10.*

## **Article 13. Right-of-Way.**

### **Section 3-13-1. Vehicle approaching or entering intersection.**

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

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- (b) When two vehicles enter an intersection from a different street at approximately the same time the driver of the vehicle on the left shall yield the right of way to the vehicle on the right.
- (c) The right of way rules declared in subsections (a) and (b) of this section are modified at through highways and otherwise as hereinafter stated in this division.

*For corresponding provisions of State traffic law, see WV Code, §17C-9-1.*

### **Section 3-13-2. Vehicle turning left at intersection.**

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

*For State Law basis of this section, see WV Code, §17C-9-2.*

### **Section 3-13-3. Vehicle entering through highway or stop intersections.**

- (a) The driver of a vehicle shall stop as required by article 3-14-1 at the entrance to a through highway and shall yield the right-of-way to other vehicles which have entered the intersection from the through highway or which are approaching so closely on the through highway as to constitute an immediate hazard, but the driver, having so yielded, may proceed.
- (b) The driver of a vehicle shall likewise stop in obedience to a stop sign as required herein at an intersection where a stop sign is erected at one or more entrances thereto, although not a part of a through highway, and shall proceed cautiously, yielding to vehicles not so obliged to stop which are within the intersection or approaching so closely as to constitute an immediate hazard, but may then proceed.

*For State Law basis of this section, see WV Code, §17C-9-3.*

### **Section 3-13-4. Vehicle entering street or public way from private road or driveway.**

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

*For State Law basis of this section, see WV Code, §17C-9-4.*

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### **Section 3-13-5. Operation of vehicles on approach of authorized emergency vehicles.**

- (a) Upon the immediate approach of an authorized emergency vehicle equipped with at least one flashing lighted lamp of a color authorized by 17C-15-26 of West Virginia State Code, which is visible under normal atmospheric conditions from a distance of five hundred feet to the front of such vehicle other than a police vehicle when operated as an authorized emergency vehicle, and when the driver is giving audible signal by siren, exhaust whistle, or bell:
  - (1) The driver of every other vehicle shall yield the right-of-way and shall immediately drive to a position parallel to, and as close as possible to, the right-hand edge or curb of the roadway clear of any intersection and shall stop and remain in such position until the authorized emergency vehicle has passed, except when otherwise directed by a police officer.
  - (2) Upon the approach of an authorized emergency vehicle, as above stated, the motorman of every streetcar shall immediately stop such car clear of any intersection and keep it in such position until the authorized emergency vehicle has passed, except when otherwise directed by a police officer.
- (b) This section shall not operate to relieve the driver of an authorized emergency vehicle from the duty to drive with due regard for the safety of all persons using the highway.

*For State Law basis of this section, see WV Code, §17C-9-5.*

### **Section 3-13-6. Misdemeanor to violate provisions of this division; penalty.**

Any person violating the provisions of this division is guilty of a misdemeanor and, upon conviction thereof, shall be fined not more than two hundred dollars; upon a second conviction within one year thereafter, shall be fined not more than three hundred dollars; and upon a third or subsequent conviction, shall be fined not more than one thousand dollars.

*For State Law basis of this section, see WV Code, §17C-9-6.*

## **Article 14. Special Stops Required.**

### **Section 3-14-1. Vehicles must stop at through highways; erection of signs.**

- (a) The State Road Commission (Commissioner of Highways) with reference to State highways in the Municipality, and the Municipal Council with reference to other highways under their jurisdiction, may

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designate through highways and erect stop signs at specified entrances thereto, or may designate any intersection as a stop intersection and erect like signs at one or more entrances to such intersection.

- (b) Every said sign shall bear the word “Stop” in letters not less than six inches in height and such sign shall at nighttime be rendered luminous by steady or flashing internal illumination, or by a fixed floodlight projected on the face of the sign, or by efficient reflecting elements on the face of the sign.
- (c) Every stop sign shall be erected as near as practicable to the nearest line of the crosswalk on the near side of the roadway.
- (d) Every driver of a vehicle approaching a stop sign shall stop before entering the crosswalk on the near side of the intersection or in the event there is no crosswalk shall stop at a clearly marked stop line, but if none, then at the point nearest the intersecting highway where the driver has a view of approaching traffic on the intersecting highway before entering the intersection except when directed to proceed by a police officer or traffic control signal.

*For State Law basis of this section, see WV Code, §17C-12-5.*

### **Section 3-14-2. Stop before emerging from alley or private driveway; penalty.**

- (a) The driver of a vehicle within a business or residence district emerging from any alley, driveway or building shall stop the vehicle immediately prior to driving onto a sidewalk or onto the sidewalk area extending across any alleyway or private driveway, and shall yield the right-of-way to any pedestrian as may be necessary to avoid collision, and upon entering the roadway shall yield the right-of-way to all vehicles approaching on the roadway.
- (b) Any person violating the provisions of this section is guilty of a misdemeanor and, upon conviction thereof, shall be fined not more than one hundred dollars; upon a second conviction within one year thereafter, shall be fined not more than two hundred dollars; and upon a third or subsequent conviction, shall be fined not more than five hundred dollars.

*For State Law basis of this section, see WV Code, §17C-12-6.*

### **Section 3-14-3. Overtaking and passing school bus; penalties; signs and warning lights upon school buses.**

- (a) The driver of a vehicle, upon meeting or overtaking from either direction any school bus which has stopped for the purpose or receiving or discharging any school children, shall stop the vehicle before reaching the

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school bus when there is in operation on the school bus flashing warning signal lights, as referred to in 3-14-4 of this chapter and the driver shall not proceed until the school bus resumes motion, or is signaled by the school bus driver to proceed or the visual signals are no longer actuated. This section applies wherever the school bus is receiving or discharging children including, but not limited to, any street, highway, parking lot, private road or driveway: Provided, That the driver of a vehicle upon a controlled access highway need not stop upon meeting or passing a school bus which is on a different roadway or adjacent to the highway and where pedestrians are not permitted to cross the roadway. Any driver acting in violation of this subsection is guilty of a misdemeanor and, upon conviction, shall be fined not less than fifty nor more than two hundred dollars, or imprisoned in the county jail not more than thirty days, or both fined and imprisoned. If the identity of the driver cannot be ascertained, then any owner or lessee of the vehicle in violation of this subsection is guilty of a misdemeanor and, upon conviction, shall be fined not less than twenty-five nor more than one hundred dollars. The conviction shall not subject the owner or lessee to further administrative or other penalties for the offense, notwithstanding other provisions of this code to the contrary.

- (b) Every bus used for transportation of school children shall bear upon the front and rear of the bus a plainly visible sign containing the words "School bus" in letters not less than eight inches in height.

*For State Law basis of this section, see WV Code, §17C-12-7.*

### **Section 3-14-4. Special lighting equipment on school buses.**

It shall be unlawful to operate any flashing warning signal light on any school bus except when the school bus is stopped or is slowing down to stop on any street or alley for the purpose of permitting school children to board or alight from said school bus.

*For State Law basis of this section, see WV Code, §17C-12-8.*

## **Article 15. Miscellaneous Rules.**

### **Section 3-15-1. Unattended motor vehicle; penalty.**

- (a) No person driving or in charge of a motor vehicle shall permit it to stand unattended without first stopping the engine, locking the ignition, removing the key, and effectively setting the brake thereon and, when standing upon any grade, turning the front wheels to the curb or side of the highway.
- (b) Any person violating the provisions of this section is guilty of a misdemeanor and, upon conviction thereof, shall be fined not more than one hundred dollars; upon a second conviction within one year thereafter,

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shall be fined not more than two hundred dollars; and upon a third or subsequent conviction, shall be fined not more than five hundred dollars.

*For State Law basis of this section, see WV Code, §17C-14-1.*

### **Section 3-15-2. Limitations on backing; penalty.**

- (a) The driver of a vehicle shall not back the same unless the movement can be made with reasonable safety and without interfering with other traffic.
- (b) Any person violating the provisions of this section is guilty of a misdemeanor and, upon conviction thereof, shall be fined not more than one hundred dollars; upon a second conviction within one year thereafter, shall be fined not more than two hundred dollars; and upon a third or subsequent conviction, shall be fined not more than five hundred dollars.

*For State Law basis of this section, see WV Code, §17C-14-2.*

### **Section 3-15-3. Obstructions to driver's view or driving mechanism; penalty.**

- (a) No person shall drive a vehicle when it is so loaded as to obstruct the view of the driver to the front or sides of the vehicle or as to interfere with the driver's control over the driving mechanism of the vehicle.
- (b) No passenger in a vehicle shall ride in such position as to interfere with the driver's view ahead or to the sides, or to interfere with his or her control over the driving mechanism of the vehicle.
- (c) Any person violating the provisions of this section is guilty of a misdemeanor and, upon conviction thereof, shall be fined not more than one hundred dollars; upon a second conviction within one year thereafter, shall be fined not more than two hundred dollars; and upon a third or subsequent conviction, shall be fined not more than five hundred dollars.

*For State Law basis of this section, see WV Code, §17C-14-4.*

### **Section 3-15-4. Passengers in seat with operator; penalty.**

- (a) No more than three persons including the operator shall ride or be permitted by such operator to ride in the seat with the operator of any motor vehicle while the motor vehicle is being operated on the streets of this Municipality: Provided, That the limitation of this section shall not apply to a truck cab or truck crew compartment properly designed for the occupancy of four persons including the operator, and so designated on the registration card by the division of motor vehicles.

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- (b) Any person violating the provisions of this section is guilty of a misdemeanor and, upon conviction thereof, shall be fined not more than one hundred dollars; upon a second conviction within one year thereafter, shall be fined not more than two hundred dollars; and upon a third or subsequent conviction, shall be fined not more than five hundred dollars.

*For State Law basis of this section, see WV Code, §17C-14-5.*

### **Section 3-15-5. Passengers on running boards; penalty.**

- (a) No passenger shall ride nor shall the operator permit any passenger to ride on the running boards or bumpers of any motor vehicle while the vehicle is being operated on the streets of this Municipality.
- (b) Any person violating the provisions of this section is guilty of a misdemeanor and, upon conviction thereof, shall be fined not more than one hundred dollars; upon a second conviction within one year thereafter, shall be fined not more than two hundred dollars; and upon a third or subsequent conviction, shall be fined not more than five hundred dollars.

*For corresponding provisions of State Law, see WV Code, §17C-14-6.*

- (c) No person shall jump, hang or ride upon the outside of any vehicle while it is in motion and no person shall drive any vehicle with any person riding or hanging on the outside thereof while it is in motion, except as may be required in the performance of official duties or while testing or making repairs to the vehicle.

### **Section 3-15-6. Following authorized emergency vehicles; penalty.**

- (a) The driver of any vehicle other than one on official business may not follow any authorized emergency vehicle traveling in response to a fire alarm or other emergency closer than five hundred feet or drive into or park the vehicle within the block where the authorized emergency vehicle has stopped in answer to a fire alarm or other emergency.
- (b) Any person violating the provisions of this section is guilty of a misdemeanor and, upon conviction thereof, shall be fined not more than one hundred dollars; upon a second conviction within one year thereafter, shall be fined not more than two hundred dollars; and upon a third or subsequent conviction, shall be fined not more than five hundred dollars.

*For corresponding provisions of State Law, see WV Code, §17C-14-9.*

### **Section 3-15-7. Crossing fire hose; penalty.**

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- (a) No vehicle shall be driven over any unprotected hose of a fire department when laid down on any street, or private driveway, to be used at any fire or alarm of fire, without the consent of the fire department official in command.
- (b) Any person violating the provisions of this section is guilty of a misdemeanor and, upon conviction thereof, shall be fined not more than one hundred dollars; upon a second conviction within one year thereafter, shall be fined not more than two hundred dollars; and upon a third or subsequent conviction, shall be fined not more than five hundred dollars.

*For State Law basis of this section, see WV Code, §17C-14-10.*

### **Section 3-15-8. Putting glass, etc., on highway**

- (a) No person shall throw or deposit upon any street or highway any glass bottle, glass, nails, tacks, wire, cans, or any other substance likely to injure any person, animal or vehicle upon such highway.
- (b) Any person who drops, or permits to be dropped or thrown, upon any highway any destructive or injurious material shall immediately remove the same or cause it to be removed.
- (c) Any person removing a wrecked or damaged vehicle from a highway shall remove any glass or other injurious substance dropped upon the highway from the vehicle.

*For State Law basis of this section, see WV Code, §17C-14-11.*

### **Section 3-15-9. Vehicles parked on private property.**

- (a) It is unlawful for any driver of a vehicle to stop, park or leave standing unattended any vehicle on a private road or driveway or on private property without having express or implied permission from the owner, tenant or lessee of the land.
- (b) Any person violating the provisions of this section is guilty of a misdemeanor and, upon conviction thereof, shall be fined not more than one hundred dollars; upon a second conviction within one year thereafter, shall be fined not more than two hundred dollars; and upon a third or subsequent conviction, shall be fined not more than five hundred dollars.
- (c) The owner, tenant or lessee of the private road or driveway or private property may move, or have moved, any vehicle stopped, parked or left standing unattended on his or her private road, driveway or private property as above prohibited without any liability for the cost of moving any vehicle, nor shall he or she be liable to the owner of the vehicle for

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any damage done to the vehicle in moving it, unless the owner, tenant or lessee of the private road or driveway or private property was negligent in removing or authorizing the removal of the vehicle. The owner of the vehicle shall be responsible to the persons removing the vehicle for paying all removal cost. Any person who removes any vehicle under the provisions of this section shall notify the State Department of Public Safety of the action, and shall, in addition, notify the Police Department of this Municipality.

*For State Law basis of this section, see WV Code, §17C-14-13.*

### **Section 3-15-10. Unlawful to litter from motor vehicle; penalty; rule making.**

- (a) It is unlawful for any driver or passenger of a motor vehicle or other conveyance to place, deposit, dump, throw or cause to be placed, deposited, dumped or thrown, any litter from a motor vehicle or other conveyance in or upon any public or private highway, road, street or alley; any private property; any public property; or the waters of the State or within one hundred feet of the water of this State, except in a proper litter or other solid waste receptable.
- (b) For purposes of this section, “litter” means all waste material including, but not limited to, any garbage, refuse, trash, disposable package, container, can, bottle, paper, ashes, cigarette or cigar butt, carcass of any dead animal or any part thereof, or any other offensive or unsightly matter, but not including wastes of primary processes of mining, logging, sawmilling, farming or manufacturing.
- (c) In addition to any penalty imposed for littering under the provisions of 22-15A-1 of the West Virginia State Code, any driver of a motor vehicle or other conveyance convicted of violating this section shall have three points assessed against his or her driver’s license.
- (d) The Commissioner shall assess points against the driver’s license of any driver of a motor vehicle or other conveyance found guilty of violating this section upon receiving notice from the municipal court of this Municipality of the conviction. The Municipal Court of this Municipality shall promptly notify the Commissioner of the convictions.
- (e) When there is more than one occupant in a motor vehicle or other conveyance and it cannot be determined which occupant is responsible for violation this section, the driver shall be presumed to be responsible for the violation.
- (f) The Commissioner of the Division of Motor Vehicles shall propose or amend legislative rules of promulgation, in accordance with the provisions

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of 29A-3-1 of the West Virginia State Code, to effectuate the purposes of this section.

*For State Law basis of this section, see WV Code, §17C-14-14.*

### **Section 3-15-11. Squealing tires, cracking exhaust noise.**

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

## **Article 16. Equipment.**

### **Section 3-16-1. Unsafe and improperly equipped vehicles; additional parts and accessories; applicability of article to farm and road equipment.**

- (a) It is a misdemeanor for any person to drive or move or for the owner to cause or knowingly permit to be driven or moved on any highway any vehicle or combination of vehicles which is in such unsafe condition as to endanger any person, or which does not contain those parts or is not at all times equipped with such lamps and other equipment in proper condition and adjustment as required in this article, or which is equipped in any manner in violation of this article, or for any person to do any act forbidden or fail to perform any act required under this article.
- (b) Nothing contained in this article shall be construed to prohibit the use of additional parts and accessories on any vehicle not inconsistent with the provisions of this article.
- (c) The provisions of this article with respect to equipment on vehicles shall not apply to implements of husbandry, road machinery, road rollers, or farm tractors except as herein made applicable. Every farm tractor equipped with an electric lighting system shall at all times mentioned in section 3-16-2 of this article display a red tail lamp and either multiple-beam or single-beam head lamps meeting the requirements of 3-16-2, 3-16-6 of this article and 17C-15-22 of West Virginia Code, respectively.

*For State Law basis of this section, see WV Code, §17C-15-1.*

### **Section 3-16-2. When lighted lamps are required.**

Every vehicle other than a school bus, motorcycle, motor-driven cycle or moped operated upon a highway within this State at any time from sunset to sunrise, or during fog, smoke, rain or other unfavorable atmospheric conditions, or at any other time when there is not sufficient light to render clearly discernible persons and vehicles on the highway at

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a distance of five hundred feet ahead, shall display lighted head lamps and illuminating devices as hereinafter respectively required for different classes of vehicles, subject to exceptions with respect to parked vehicles as provided for in West Virginia Code, chapter Seventeen C, article 15, section 15. Every school bus, motorcycle, motor-driven cycle and moped shall display lighted head lamps at all times when upon the highway.

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

### **Section 3-16-3. Penalty for violations of the provisions of this article.**

- (a) Unless otherwise provided for in this article and, except as otherwise provided in subsection (b) of this section, any person violating the provisions of this article is guilty of a misdemeanor and, upon conviction thereof, shall be fined not more than one hundred dollars; upon a second conviction within one year thereafter, shall be fined not more than two hundred dollars; and upon a third or subsequent conviction, shall be fined not more than five hundred dollars.
- (b) Any person violating the provisions of article fifteen, chapter seventeen c of the Code of West Virginia, sections thirty-one or thirty-two is guilty of a misdemeanor and, upon conviction thereof, shall be fined not more than one hundred dollars, or confined in the county or regional jail for not more than ten days, or both; upon a second conviction within one year thereafter, shall be fined not more than two hundred dollars, or confined in the county or regional jail for not more than twenty days, or both; and upon a third or subsequent conviction, shall be fined not more than five hundred dollars, or confined in the county or regional jail not more than six months, or both.

*For State Law basis of this section, see WV Code, §17C-15-6.*

### **Section 3-16-4. Color of clearance lamps, side marker lamps and reflectors.**

- (a) Front clearance lamps and those marker lamps and reflectors mounted on the front or on the side near the front of a vehicle shall display or reflect an amber color.
- (b) Rear clearance lamps and those marker lamps and reflectors mounted on the rear or on the sides near the rear of a vehicle shall display or reflect a red color.
- (c) All lighting devices and reflectors mounted on the rear of any vehicle shall display or reflect a red color, except the stop light or other signal device, which may be red, amber, or yellow, and except that the light illuminating the license plate or the light emitted by a back-up light shall be white.

*For State Law basis of this section, see WV Code, §17C-15-10.*

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### **Section 3-16-5. Lights on parked vehicles.**

- (a) Whenever a vehicle is lawfully parked upon a street or highway during the hours between sunset and sunrise and in the event there is sufficient light to reveal any person or object within a distance of five hundred feet upon such street or highway, no lights need be displayed upon such parked vehicle.
- (b) Whenever a vehicle is parked or stopped upon a roadway or shoulder adjacent thereto, whether attended or unattended, during the hours between sunset and sunrise and there is not sufficient light to reveal any person or object within a distance of five hundred feet upon such highway, such vehicle so parked or stopped shall be equipped with one or more lamps meeting the following requirements: At least one lamp shall display a white or amber light visible from a distance of five hundred feet to the front of the vehicle, and the same lamp or at least one other lamp shall display a red light visible from a distance of five hundred feet to the rear of the vehicle, and the location of said lamp or lamps shall always be such that at least one lamp or combination of lamps meeting the requirements of this section is installed as near as practicable to the side of the vehicle which is closest to passing traffic. The foregoing provisions shall not apply to a motorcycle, motor-driven cycle or moped.
- (c) Any lighted head lamps upon a parked vehicle shall be depressed or dimmed.

*For State Law basis of this section, see WV Code, §17C-15-15.*

### **Section 3-16-6. Multiple-beam road-lighting equipment – Requirements generally.**

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

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

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- (c) Every new motor vehicle, other than a motorcycle, motor-driven cycle or moped, registered in the State after January first, one thousand nine hundred fifty-two, which has multiple-beam road-lighting equipment shall be equipped with a beam indicator, which shall be lighted whenever the uppermost distribution of light from the head lamps is in use, and shall not otherwise be lighted. Said indicator shall be so designed and located that when lighted it will be readily visible without glare to the driver of the vehicle so equipped.

*For State Law basis of this section, see WV Code, §17C-15-20.*

### **Section 3-16-7. Same – Use of; dimming lights upon approaching or overtaking.**

- (a) Whenever a motor vehicle is being operated on a roadway or shoulder adjacent thereto during the times specified in section 3-16-2, the driver shall use a distribution of light, or composite beam, directed high enough and of sufficient intensity to reveal persons and vehicles at a safe distance in advance of the vehicle, subject to the following requirements and limitations:
- (b) Whenever a driver of a vehicle approaches an oncoming vehicle within five hundred feet, such driver shall use a distribution of light, or composite beam, so aimed that the glaring rays are not projected into the eyes of the oncoming driver. The lowermost distribution of light, or composite beam specified in section 3-16-6, subdivision (b) shall be deemed to avoid glare at all times, regardless of road contour and loading.
- (c) Whenever the driver of a vehicle follows another vehicle within two hundred feet to the rear, except when engaged in the act of overtaking and passing, the driver shall use a distribution of light permissible under this chapter other than the uppermost distribution of light specified in subdivision (a) of section 3-16-6.

*For State Law basis of this section, see WV Code, §17C-15-21.*

### **Section 3-16-8. Mufflers; prevention of noise, fumes and smoke.**

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

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

*For State Law basis of this section,, see WV Code, §17C-15-34.*

### **Section 3-16-9. Windshields must be unobstructed and equipped with wipers.**

- (a) No person shall drive any motor vehicle with any sign, poster, or other nontransparent material upon the front windshield, side wings, or side or rear windows of such vehicle which obstructs the driver's clear view of the highway or any intersecting highway.
- (b) The windshield on every motor vehicle shall be equipped with a device for cleaning rain, snow, or other moisture from the windshield, which device shall be so constructed as to be controlled or operated by the driver of the vehicle.
- (c) Every windshield wiper upon a motor vehicle shall be maintained in good working order.

*For State Law basis of this section, see WV Code, §17C-15-36.*

### **Section 3-16-10. Sun screening devices; penalty.**

- (a) No person may operate a motor vehicle that is registered or required to be registered in the State of West Virginia on any Municipal street, highway, or road that has a sun screening device on the windshield, the front side wings and side windows adjacent to the right and left of the driver and windows adjacent to the rear of the driver that do not meet the requirements of this section. Provided, That law-enforcement, K-9 and other emergency vehicles that are designed to haul animals are exempt from this requirement.
- (b) A sun screening device, when used in conjunction with the windshield, must be nonreflective and may not be red, yellow or amber in color. A sun screening device may be used only along the top of the windshield and may not extend downward beyond the ASI line nor more than five inches from the top of the windshield whichever is closer to the top of the windshield.
- (c) A sun screening device, when used in conjunction with the automotive safety glazing materials of the side wings or side windows located at the immediate right or left of the driver, shall be a nonreflective type with reflectivity of not more than twenty percent and have a light transmission of not less that thirty-five percent . The side windows behind the driver and the rear most windows may have a sun screening device that is

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designed to be used on automotive safety glazing material that has a light transmission of not less than thirty-five percent and a reflectivity of not more than twenty percent. If a sun screening device is used on glazing behind the driver, one right and one left outside rear view mirror is required.

- (d) The provisions of this section do not apply to a motor vehicle registered in the State of West Virginia in the name of a person, or the person's legal guardian, who has an affidavit signed by a physician or an optometrist licensed to practice in this State and states that the person has a physical condition and makes it necessary to equip the motor vehicle with sun screening material which would be of a like transmittance or luminous reflectance in violation of this section. The affidavit must be in the possession of the person so afflicted, or the person's legal guardian, at all times while being transported in the motor vehicle.
- (e) The light transmission requirement of this section does not apply to windows behind the driver on trucks, buses, trailers, mobile homes, and multipurpose passenger vehicles.
- (f) As used in this section:
  - (1) "Bus" means a motor vehicle with motive power, except a trailer, designed for carrying more than ten (10) persons.
  - (2) "Light transmission" means the ratio of the amount of total light to pass through a product or material to the amount of the total light falling on the product or material.
  - (3) "Luminous reflectance" means the ratio of the amount of total light that is reflected outward by the product or material to the amount of the total light falling on the product or material.
  - (4) "Manufacturer" means any person engaged in the manufacturing or assembling of sun screening products or materials designed to be used in conjunction with vehicle glazing materials for the purpose of reducing the effects of the sun.
  - (5) "Motor homes" means vehicular units designed to provide temporary living quarters built into and an integral part of or permanently attached to a self-propelled motor vehicle chassis.
  - (6) "Multi-purpose passenger vehicle" means a motor vehicle with motive power except a trailer designed to carry ten (10) persons or less which is constructed either on a truck chassis or with special features for occasional off road operation.

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- (7) "Non-reflective" means a product or material designed to absorb light rather than to reflect it.
  - (8) "Passenger car" means a motor vehicle with motive power, except a multipurpose passenger vehicle, motor cycle or trailer, designed for carrying ten (10) persons or less.
  - (9) "Sun screening device" means film, material or device that is designed to be used in conjunction with motor vehicle safety glazing materials for reducing the effects of the sun.
  - (10) "Truck" means a motor vehicle with motive power except a trailer, designed primarily for the transportation of property or special purpose equipment.
- (g) Any person violating the provisions of this section is guilty of a misdemeanor and, upon conviction thereof, shall be fined not more than two hundred dollars.

*For State Law basis of this section, see WV Code, §17C-15-36a.*

### **Section 3-16-11. Child passenger safety devices required; child safety seats and booster seats.**

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

Any person who violates any provision of this section is guilty of a misdemeanor and, upon conviction thereof, shall be fined not less than ten dollars nor more than twenty dollars.

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

*For State Law basis of this section, see WV Code, §17C-15-46.*

### **Section 3-16-12. Operation of vehicles with safety belts; exception; penalty; civil actions; educational program by department of public safety (West Virginia state police).**

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- (a) Effective the 1<sup>st</sup> day of September, one thousand nine hundred ninety-three, a person may not operate a passenger vehicle on a public street or highway of this Municipality unless the person, any passenger in the back seat under eighteen years of age, any passenger in the front seat of such passenger vehicle is restrained by a safety belt meeting applicable federal motor vehicle safety standards. For the purposes of this section, the term “passenger vehicle” means a motor vehicle which is designed for transporting ten passengers or less, including the driver, except that such term does not include a motorcycle, a trailer, or any motor vehicle which is not required on the date of the enactment of this section under a federal motor vehicle safety standard to be equipped with a belt system. The provisions of this section shall apply to all passenger vehicles manufactured after the first day of January, one thousand nine hundred sixty-seven, and being 1968 models and newer.
- (b) The required use of safety belts as provided herein does not apply to a duly appointed or contracted rural mail carrier of the United States Postal Service who is actually making mail deliveries or to a passenger or operator with a physically disabling condition whose physical disability would prevent appropriate restraint in such safety belt if the condition is duly certified by a physician who shall state the nature of the disability as well as the reason such restraint is inappropriate. The Division of Motor Vehicles shall adopt rules, in accordance with the provisions of 29A-1-1 of West Virginia State Code, to establish a method to certify the physical disability and to require use of an alternative restraint system where feasible or to waive the requirement for the use of any restraint system.
- (c) Any person who violates the provisions of this section shall be fined not more than twenty-five dollars. No court costs or other fees shall be assessed for a violation of this section. Enforcement of this section shall be accomplished only as a secondary action when a driver of a passenger vehicle has been detained for probable cause of violating another section of Motor Vehicle Code of West Virginia.
- (d) Nothing contained in this section shall be construed to abrogate or alter the provisions of 3-16-11 of this article relating to the mandatory use of child passenger safety devices.

*For State Law basis of this section, see WV Code, §17C-15-49.*

### **Article 17. Driving while Under the Influence of Alcohol or Drugs; Reckless Driving; Related Provisions.**

#### **Section 3-17-1. Persons driving under influence of alcohol, controlled substances or drugs.**

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- (a) Any person who:
  - (1) Drives a vehicle in this Municipality while he or she:
    - (A) Is under the influence of alcohol; or
    - (B) Is under the influence of any controlled substance; or
    - (C) Is under the influence of any other drug; or
    - (D) Is under the combined influence of alcohol and any controlled substance or any other drug; or
    - (E) Has an alcohol concentration in his or her blood of eight hundredths of one percent or more, by weight;
  - (2) When so driving does any act forbidden by law or fails to perform any duty imposed by law in the driving of the vehicle, which act or failure proximately causes bodily injury to any person other than himself or herself, is guilty of a misdemeanor and upon conviction thereof, shall be confined in the county or regional jail for not less than one day nor more than thirty days, which jail term is to include actual confinement of not less than twenty-four hours, and shall be fined not less than two hundred dollars nor more than one thousand dollars.
- (b) Any person who:
  - (1) Drives a vehicle in this Municipality while he or she:
    - (A) Is under the influence of alcohol; or
    - (B) Is under the influence of any controlled substance; or
    - (C) Is under the influence of any other drug; or
    - (D) Is under the combined influence of alcohol and any controlled substance or any other drug; or
    - (E) Has an alcohol concentration in his or her blood of eight hundredths of one percent or more, by weight;
  - (2) Is guilty of a misdemeanor and upon conviction thereof, shall be confined in the county or regional jail for not less than one day nor more than thirty days, which jail term is to include actual

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confinement of not less than twenty-four hours, and shall be fined not less than one hundred dollars nor more than five hundred dollars.

- (c) Any person who, being an habitual user of narcotic drugs or amphetamine or any derivative thereof, drives a vehicle in this Municipality, shall be guilty of a misdemeanor and, upon conviction thereof, shall be confined in the county or regional jail for not less than one day nor more than thirty days, which jail term is to include actual confinement of not less than twenty-four hours, and shall be fined not less than one hundred dollars nor more than five hundred dollars.
- (d) Any person who:
  - (1) Knowingly permits his or her vehicle to be driven in this Municipality by any other person who is:
    - (A) Is under the influence of alcohol; or
    - (B) Is under the influence of any controlled substance; or
    - (C) Is under the influence of any other drug; or
    - (D) Is under the combined influence of alcohol and any controlled substance or any other drug; or
    - (E) Has an alcohol concentration in his or her blood of eight hundredths of one percent or more, by weight;
  - (2) Is guilty of a misdemeanor and, upon conviction thereof, shall be confined in the county or regional jail for not more than thirty days and shall be fined not less than one hundred dollars nor more than five hundred dollars.
- (e) Any person who knowingly permits his or her vehicle to be driven in this Municipality by any other person who is an habitual user of narcotic drugs or amphetamine or any derivative thereof, is guilty of a misdemeanor and, upon conviction thereof, shall be confined in the county or regional jail for not more than thirty days and shall be fined not less than one hundred dollars nor more than five hundred dollars.
- (f) Any person under the age of twenty-one years who drives a vehicle in this Municipality while he or she has an alcohol concentration in his or her blood of two hundredths of one percent or more, by weight, but less than eight hundredths of one percent, by weight, for a first offense under this subsection, is guilty of a misdemeanor and, upon conviction thereof, shall

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be fined not less than twenty-five dollars nor more than one hundred dollars. A person who is charged with a first offense under the provisions of this subsection may move for a continuance of the proceedings, from time to time, to allow the person to participate in the vehicle alcohol test and lock program as provided for in West Virginia code 17C-5A-3a. Upon successful completion of the program, the court shall dismiss the charge against the person, and expunge the person's record as it relates to the alleged offense. In the event the person fails to successfully complete the program, the court shall proceed to an adjudication of the alleged offense. A motion for a continuance under this subsection may not be constructed as an admission or be used as evidence.

- (g) Any person who:
  - (1) Drives a vehicle in this Municipality while he or she:
    - (A) Is under the influence of alcohol; or
    - (B) Is under the influence of any controlled substance; or
    - (C) Is under the influence of any other drug; or
    - (D) Is under the combined influence of alcohol and any controlled substance or any other drug; or
    - (E) Has an alcohol concentration in his or her blood of eight hundredths of one percent or more, by weight; and
  - (2) The person when so driving has on or within the motor vehicle one or more other persons who are unemancipated minors who have not reached their sixteenth birthday, is guilty of a misdemeanor and, upon conviction thereof, shall be confined in the county or regional jail for not less than two days nor more than thirty days; which jail term is to include actual confinement of not less than forty-eight hours, and shall be fined not less than two hundred dollars nor more than one thousand dollars.
- (h) The fact that any person charged with a violation of subsection (a), (b) or (c) of this section, or any person permitted to drive as described under subsection (a) or (e) of this section, is or has been legally entitled to use alcohol, a controlled substance or a drug does not constitute a defense against any charge of violating subsection (a), (b), (c), (d) or (e) of this section.

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- (i) For purposes of this section, the term "controlled substance" has the meaning ascribed to it in Chapter 60-A (60-A-1-101 et seq.) of the West Virginia Code.
- (j) As used in this Section:
  - (1) "In this Municipality" means anywhere within the physical boundaries of the Municipality or on Municipal owned property outside the Municipal boundaries, including, but not limited to, publicly maintained streets and highways, and subdivision streets or other areas not publicly maintained but nonetheless open to the use of the public for purposes of vehicular travel.
  - (2) "Driving under the influence of intoxicating liquor", "driving or operating a motor vehicle while intoxicated", "for any person who is under the influence of intoxicating liquor to drive any vehicle," or any similar term or phrase shall be construed to mean and be synonymous with the term or phrase "While under the influence of alcohol . . . drives a vehicle" as a latter term or phrase is used in Section 2 of the Article.

*For State Law regarding persons driving under influence of alcohol, controlled substances or drugs, see WV Code, §17C-5-2 and 17C-5-2a.*

### **Section 3-17-2. Reckless driving; penalties.**

- (a) Any person who drives any vehicle upon any street or highway, or upon any residential street, or in any parking area, or upon the ways of any institution of higher education, whether public or private, or upon the ways of any State institution, or upon the property of any county boards of education, or upon any property within the city park and public recreation system established by the director of recreation of the Municipality of Ronceverte pursuant to this Code in willful and wanton disregard for the safety of persons or property is guilty of reckless driving.
- (b) The provisions of subsection (a) of this section shall not apply to those areas which have been temporarily closed for racing sport events or which may be set aside by the director of recreation of the Municipality of Ronceverte within the city park and recreation system for exclusive use by motorcycles or other recreational vehicles.
- (c) Every person convicted of reckless driving may be punished upon a first conviction by imprisonment for a period of not less than five days nor more than thirty days, or by a fine of not less than twenty-five dollars nor more than five hundred dollars, or by both such fine and imprisonment, and on a second or subsequent conviction may be punished by imprisonment for not less than ten days nor more than thirty days, or by a

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fine of not less than fifty dollars nor more than one thousand dollars, or by both such fine and imprisonment.

*For State Law basis of this section, see WV Code, §17C-5-3.*

### **Section 3-17-3. Implied consent to test: administration at direction of law-enforcement officer; designation of type of test; definition of law-enforcement officer.**

- (a) Any person who drives a motor vehicle in this Municipality is deemed to have given his or her consent by the operation of the motor vehicle to a preliminary breath analysis and a secondary chemical test of either his or her blood, breath or urine for the purposes of determining the alcoholic content of his or her blood.
- (b) A preliminary breath analysis may be administered in accordance with the provisions of 3-17-4 of this article whenever a law-enforcement officer has reasonable cause to believe a person has committed an offense prohibited by section 3-17-1 of this article.
- (c) A secondary test of blood, breath or urine is incidental to a lawful arrest and is to be administered at the direction of the arresting law-enforcement officer having reasonable grounds to believe the person has committed an offense prohibited by 3-17-1.
- (d) The law-enforcement agency that employs the law-enforcement officer shall designate which type of secondary test is to be administered: Provided, That if the test designated is a blood test and the person refuses to submit to the blood test, then the law-enforcement officer making the arrest shall designate either a breath or urine test to be administered. Notwithstanding the provisions of 3-17-6 of this article, the refusal to submit to a blood test only, may not result in the revocation of the arrested person's license to operate a motor vehicle in this State.
- (e) Any person to whom a preliminary breath test is administered who is then arrested shall be given a written statement advising him or her that his or her refusal to submit to the secondary chemical test pursuant to subsection (d) of this section, will result in the revocation of his or her license to operate a motor vehicle in this state for a period of a at least one year and up to life.
- (f) Any law-enforcement officer who has been properly trained in the administration of any secondary chemical test authorized by this article including, but not limited to, certification by the division of health in the operation of any equipment required for collection and analysis of a breath sample, may conduct the test at any location in the county wherein the arrest is made: Provided, That the law-enforcement officer may conduct

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the test at the nearest available properly functioning secondary chemical testing device located outside the Municipality in which the arrest was made, if (i) there is no properly functioning secondary chemical testing device located within the Municipality in which the arrest was made or (ii) there is no Municipal Judge available within the Municipality in which the arrest was made for the arraignment of the person arrested. A law-enforcement officer who is directing that a secondary chemical test be conducted has the authority to transport the person arrested to where the secondary chemical testing device is located.

- (g) If the arresting officer lacks proper training in the administration of a secondary chemical test, then any other law-enforcement officer who has received training in the administration of the secondary chemical test to be administered may, upon the request of the arresting law-enforcement officer and in his or her presence, conduct the secondary test. The results of a test conducted pursuant to this subsection may be used in evidence to the same extent and in the same manner as if the test had been conducted by the arresting law-enforcement officer.
- (h) Only the person actually administering or conducting a test conducted pursuant to this article is competent to testify as to the results and the veracity of the test.
- (i) For the purpose of this article, the term “law-enforcement officer” or “police officer” means: (1) Any member of the West Virginia State Police; (2) any sheriff and any deputy sheriff of any county; (3) any member of a police department in any Municipality as defined in section 8-1-2 of the West Virginia State Code; (4) any conservation officer of the Division of Natural Resources; and (5) any special police officer appointed by the Governor pursuant to the provisions of section 61-3-41 of the West Virginia State Code who has completed the course of instruction at a law-enforcement training academy as provided for under the provisions of section 30-29-9 of West Virginia State Code.
- (j) Any law-enforcement officer who has reasonable cause to believe that person has committed an offense prohibited by section 20-7-18 of West Virginia State Code, relating to the operation of a motorboat, jet ski or other motorized vessel, shall follow the provisions of this section in administering, or causing to be administered, a preliminary breath analysis and the secondary chemical test of the accused person’s blood, breath or urine for the purpose of determining alcohol content of his or her blood.

*For State Law basis of this section, see WV Code, §17C-5-4.*

### **Section 3-17-4. Preliminary analysis of breath to determine alcoholic content of blood.**

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When a law-enforcement officer has reason to believe a person has committed an offense prohibited by 3-17-1 of this article, the law-enforcement officer may require such person to submit to a preliminary breath analysis for the purpose of determining such person's blood alcohol content. Such breath analysis must be administered as soon as possible after the law-enforcement officer has a reasonable belief that the person has been driving while under the influence of alcohol, controlled substances or drugs. Any preliminary breath analysis required under this section must be administered with a device and in a manner approved by the Department of Health for that purpose. The results of a preliminary breath analysis shall be used solely for the purpose of guiding the officer in deciding whether an arrest should be made. When a driver is arrested following a preliminary breath analysis, the tests, as hereinafter provided in this article, shall be administered in accordance with the provisions thereof.

*For State Law basis of this section, see WV Code, §17C-5-5.*

### **Section 3-17-5. How blood test administered; additional test at option of person tested; use of test results; certain immunity from liability incident to administering test.**

Only a doctor of medicine or osteopathy, or registered nurse, or trained medical technician at the place of his employment, acting at the request and direction of the law-enforcement officer, may withdraw blood for the purpose of determining the alcoholic content thereof. These limitations shall not apply to the taking of a breath test or a urine specimen. In withdrawing blood for the purpose of determining the alcoholic content thereof, only a previously unused and sterile needle and sterile vessel may be utilized and the withdrawal shall otherwise be in strict accord with accepted medical practices. A nonalcoholic antiseptic shall be used for cleansing the skin prior to venapuncture. The person tested may, at his own expense, have a doctor of medicine or osteopathy, or registered nurse, or trained medical technician at the place of his employment, of his own choosing, administer a chemical test in addition to the test administered at the direction of the law-enforcement officer. Upon the request of the person who is tested, full information concerning the test taken at the direction of the law-enforcement officer shall be made available to him. No person who administers any such test upon the request of a law-enforcement officer as herein defined, no hospital in or with which such person is employed or is otherwise associated or in which such test is administered, and no other person, firm or corporation by whom or with which such person is employed or is in any way associated, shall be criminally liable for the administration of such test, or civilly liable in damages to the person tested unless for gross negligence or willful or wanton injury.

*For State Law basis of this section, see WV Code, §17C-5-6.*

### **Section 3-17-6. Refusal to submit to tests; revocation of license or privilege; consent not withdrawn if person arrested is incapable of refusal; hearing.**

- (a) If any person under arrest as specified in section 3-17-3 of this chapter refuses to submit to any secondary chemical test, the tests shall not be

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given: Provided, That prior to such refusal, the person is given a written statement advising him that his refusal to submit to the secondary test finally designated will result in the revocation of his license to operate a motor vehicle in this State for a period of at least one year and up to life. If a person initially refuses to submit to the designated secondary chemical test after being informed in writing of the consequences of such refusal, he shall be informed orally and in writing that after fifteen minutes said refusal shall be deemed to be final and the arresting officer shall after said period of time expires have no further duty to provide the person with an opportunity to take the secondary test. The officer shall within forty-eight hours of such refusal, sign and submit to the State Commissioner of Motor Vehicles a written statement of the officer that (1) he had reasonable grounds to believe such person had been driving a motor vehicle upon the public streets or highways of the Municipality while under the influence of alcohol, controlled substances or drugs; (2) such person was lawfully placed under arrest for the offense relating to driving a motor vehicle upon the public streets or highways of the Municipality while under the influence of alcohol, controlled substances or drugs; (3) such person refused to submit to the secondary chemical test finally designated in the manner provided in section 3-17-3 of this chapter, such section being in substance the same as section 3-17-3 of this chapter, and; (4) such person was given a written statement advising him that his license to operate a motor vehicle in this State would be revoked for a period of at least one year and up to life if he refused to submit to the secondary test finally designated in the manner provided in section 3-17-3 of this chapter. The signing of the statement required to be signed by this section shall constitute an oath or affirmation by the person signing such statement that the statements contained therein are true and that any copy filed is a true copy. Such statement shall contain upon its face a warning to the officer signing that to willfully sign a statement containing false information concerning any matter or thing, material or not material, is false swearing and is a misdemeanor. Upon receiving the statement the Commissioner of the Department of Motor Vehicles shall make and enter an order revoking such person's license to operate a motor vehicle in this State for the period prescribed below.

For the first refusal to submit to the designated secondary chemical test, the Commissioner shall make and enter an order revoking such person's license to operate a motor vehicle in this state for a period of one year. If the Commissioner has previously revoked the person's license under the provisions of this section, the Commissioner shall, for the refusal to submit to the designated secondary chemical test, make and enter an order revoking such person's license to operate a motor vehicle in this State for a period of ten years: Provided, That the license may be reissued in five years in accordance with the provisions of 17C-5A-3 of West Virginia State Code. If the Commissioner has previously revoked the person's

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license more than once under the provisions of this section, the Commissioner shall, for the refusal to submit to the designated secondary chemical test, make and enter an order revoking the person's license to operate a motor vehicle in this state for a period of life: Provided, That the license may be reissued in ten years in accordance with the provisions of section 17C-5A-3 of West Virginia State Code. A copy of each such order shall be forwarded to such person by registered or certified mail, return receipt requested, and shall contain the reasons for the revocation and shall specify the revocation period imposed pursuant to this section. No revocation shall become effective until ten days after receipt of the copy of the order. Any person who is unconscious or who is otherwise in a condition rendering him incapable of refusal, shall be deemed not to have withdrawn his consent for a test of his blood, breath or urine as provided in section 3-17-3 of this article and the test may be administered although the person is not informed that his failure to submit to the test will result in the revocation of his license to operate a motor vehicle in this State for the period provided for in this section.

A revocation hereunder shall run concurrently with the period of any suspension or revocation imposed in accordance with other provisions of this code and growing out of the same incident which gave rise to the arrest for driving a motor vehicle while under the influence of alcohol, controlled substances or drugs and the subsequent refusal to undergo the test finally designated in accordance with the provisions of section 3-17-3 of this chapter.

- (b) For the purposes of this section, where reference is made to previous suspensions or revocations under this section, the following types of suspensions or revocations under this section:
  - (1) Any suspension or revocation on the basis of a conviction under a municipal ordinance of another state or a statute of the United States of any other state of an offense which has the same elements as an offense described in 3-17-1 of this chapter, for conduct which occurred on or after June tenth, one thousand nine hundred eighty-three; and
  - (2) Any revocation under the provisions of section 17C-5A-1 or 17C-5A-2 of West Virginia State Code, for conduct which occurred on or after June tenth, one thousand nine hundred eighty-three.
- (c) A person whose license to operate a motor vehicle in this state has been revoked shall be afforded an opportunity to be heard, in accordance with the provisions of section 17C-5A-2 of West Virginia State Code.

*For State Law basis of this section, see WV Code, §17C-5-7.*

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### Section 3-17-7. Interpretation and use of chemical test.

- (a) Upon trial for the offense of driving a motor vehicle on the public streets or highways of the Municipality while under the influence of alcohol, controlled substances or drugs, or upon the trial of any civil or criminal action arising out of acts alleged to have been committed by any person while driving a motor vehicle while under the influence of alcohol, controlled substances or drugs, evidence of the amount of alcohol in the person's blood at the time of the arrest or of the acts alleged, as shown by a chemical analysis of his or her blood, breath or urine, is admissible, if the sample or specimen was taken within two hours from and after the time of arrest or of the acts alleged. The evidence gives rise to the following presumptions or has the following effect:
- (1) Evidence that there was, at that time, five hundredths of one percent or less, by weight, of alcohol in his or her blood, is prima facie evidence that the person was not under the influence of alcohol;
  - (2) Evidence that there was, at that time, more than five hundredths of one percent and less than eight hundredths of one percent, by weight, of alcohol in the person's blood is relevant evidence, but it is not to be given prima facie effect in indicating whether the person was under the influence of alcohol;
  - (3) Evidence that there was, at that time, eight hundredths of one percent or more, by weight, of alcohol in his or her blood, shall be admitted as prima facie evidence that the person was under the influence of alcohol.
- (b) A determination of the percent, by weight, of alcohol in the blood shall be based upon a formula of:
- (1) The number of grams of alcohol per one hundred cubic centimeters of blood;
  - (2) The number of grams of alcohol per two hundred ten liters of breath;
  - (3) The number of grams of alcohol per sixty-seven milliliters of urine; or
  - (4) The number of grams of alcohol per eighty-six milliliters of serum.
- (c) A chemical analysis of a person's blood, breath or urine, in order to give rise to the presumptions or to have the effect provided for in subsections

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- (a) of this section, must be performed in accordance with methods and standards approved by the State Division of Health. A chemical analysis of blood or urine to determine the alcohol content of blood shall be conducted by a qualified laboratory or by the State Police scientific laboratory, of the Criminal Identification Bureau of the West Virginia State Police.
- (d) The provisions of this division do not limit the introduction in any administrative or judicial proceeding of any other competent evidence bearing on the question of whether the person was under the influence of alcohol, controlled substances or drugs.

*For State Law basis of this section, see WV Code, §17C-5-8.*

### **Section 3-17-8. Right to demand test.**

Any person lawfully arrested for driving a motor vehicle on the public streets or highways of the Municipality while under the influence of alcohol, controlled substances or drugs shall have the right to demand that a sample or specimen of his blood, breath or urine be taken within two hours from and after the time of arrest, and that a chemical test thereof be made. The analysis disclosed by such chemical test shall be made available to the arrested person forthwith upon demand.

*For State Law basis of this section, see WV Code, §17C-5-9.*

### **Section 3-17-9. Fee for withdrawing blood sample and making urine test; payment of fees.**

A reasonable fee shall be allowed to the person withdrawing a blood sample or administering a urine test at the request and direction of a law-enforcement officer in accordance with the provisions of this division. If the person whose blood sample was withdrawn or whose urine was tested was arrested and charged with a violation of section 3-17-1, the Municipality shall pay the fee, and if said person is subsequently convicted of the charge, the fee shall be taxed as a part of the costs of the criminal proceeding and shall be paid, notwithstanding any other provision of this code to the contrary, into the general fund of the Municipality.

*For State Law basis of this section, see WV Code, §17C-5-10.*

### **Section 3-17-10. Hearing; revocation; review.**

Upon the written request of a person whose license to operate a motor vehicle in this State has been revoked or suspended under the provisions of 3-17-6 of this chapter the Commissioner of the Division of Motor Vehicles shall stay the imposition of the period of revocation or suspension and afford the person an opportunity to be heard. The written request must be filed with the Commissioner in person or by registered or certified mail, return receipt requested, within thirty calendar days after receipt of a copy of the order of

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revocation or suspension or no hearing will be granted. The hearing shall be before the commissioner or a hearing examiner retained by the Commissioner who shall rule on evidentiary issues and submit proposed findings of fact and conclusions of law for the consideration of the commissioner and all of the pertinent provisions of article 29A-5-1 of the West Virginia State Code shall apply. The hearing shall be held at an office of the Division located in or near the county wherein the arrest was made in this State or at some other suitable place in the county wherein the arrest was made if an office of the division is not available.

*For State Law basis of this section, see WV Code, §17C-5A-2.*

### **Article 18. Accidents.**

#### **Section 3-18-1. Accidents involving damage to vehicle.**

The driver of any vehicle involved in an accident resulting only in damage to a vehicle which is driven or attended by any person shall immediately stop the vehicle at the scene of the accident or as close thereto as possible but shall forthwith return to and in every event shall remain at the scene of the accident until he has fulfilled the requirements of section 3-18-2 of this chapter. Every stop shall be made without obstructing traffic more than is necessary. Any person failing to stop or comply with the requirements under the circumstances is guilty of a misdemeanor.

*For State Law basis of this section, see WV Code, §17C-4-2. For State Law regarding duty of driver involved in accident resulting in death or personal injuries, see WV Code, §17C-4-1.*

#### **Section 3-18-2. Duty to give information and render aid.**

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

*For State Law basis of this section, see WV Code, §17C-4-3. For State Law regarding additional duties of drivers in accidents resulting in death or personal injuries, see WV Code, §17C-4-1, §17C-4-6. Regarding additional duties of drivers, their attorneys and agents, when accident results in death or personal injuries, to give written notice thereof to State department of motor vehicles, see WV Code, §17C-4-7.*

#### **Section 3-18-3. Duty upon striking unattended vehicle.**

The driver of any vehicle which collides with any vehicle which is unattended shall immediately stop and shall then and there either locate and notify the operator or owner

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of the vehicle of the name and address of the driver and owner of the vehicle striking the unattended vehicle or shall leave in a conspicuous place in the vehicle struck a written notice giving the name and address of the driver and of the owner of the vehicle doing the striking and a statement of the circumstances thereof.

*For State Law basis of this section, see WV Code, §17C-4-4.*

### **Section 3-18-4. Duty upon striking fixtures upon a street.**

The driver of any vehicle involved in an accident resulting only in damage to fixtures or other property legally upon or adjacent to a street shall take reasonable steps to locate and notify the owner or person in charge of the property of the fact and of his or her name and address and of the registration number of the vehicle he or she is driving and shall upon request and if available exhibit his or her driver's license and shall make report of such accident when and as required in section 3-18-6.

*For State Law basis of this section, see WV Code, §17C-4-5.*

### **Section 3-18-5. Immediate reports of accidents.**

The driver of a vehicle involved in an accident resulting in an injury to or death of any person or total property damage to an apparent extent of five hundred dollars or more shall immediately by the quickest means of communication, whether oral or written, give notice of the accident to the Police Department if the accident occurs within this Municipality.

### **Section 3-18-6. Written reports of accidents.**

Every law-enforcement officer who, in the regular course of duty, investigates a motor vehicle accident occurring on the streets and highways of this Municipality resulting in bodily injury to or death of any person or total property damage to an apparent extent of five hundred dollars or more shall, either at the time of and at the scene of the accident or thereafter by interviewing participants or witnesses within twenty-four hours after completing such investigation, forward a written report of such accident to the West Virginia Division of Motor Vehicles. The division shall prepare a form for such accident report and, after approval of such form by the Commissioner, the Superintendent of the West Virginia State Police and the Commissioner of Highways, shall supply copies of such form to the police departments, sheriffs and other appropriate law-enforcement agencies. Every accident report required under the provisions of this section shall be made on such form.

*For State Law basis of this section, which further requires report when accident results in death or personal injury, see WV Code, §17C-4-7.*

### **Section 3-18-7. When driver unable to report.**

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Whenever the driver of a vehicle is physically incapable of making an immediate report of an accident as required by 3-18-5 of this chapter and there was another occupant in the vehicle at the time of the accident capable of making a report, the occupant shall make or cause to be made the report not made by the driver.

*For State Law basis of this section, see WV Code, §17C-4-8.*

### **Section 3-18-8. Accident report forms.**

- (a) The division shall prepare and upon request supply to police departments, coroners, sheriffs, Division of Natural Resources, and other suitable agencies or individuals, forms for accident reports required hereunder, appropriate with respect to the persons required to make such reports and the purposes to be served. The written reports to be made by investigating officers shall call for sufficiently detailed information to disclose with reference to a traffic accident the cause, conditions then existing, and the persons and vehicles involved.
- (b) Every accident report required to be made in writing shall be made on the appropriate form approved by the Division and shall contain all of the information required therein unless not available.
- (c) Every such report shall also contain information sufficient to enable the Commissioner to determine whether the requirements for security upon motor vehicles is in effect in accordance with chapter 17D of the West Virginia State Code.

*For State Law basis of this section, see WV Code, § 17C-4-9.*

### **Section 3-18-9. Penalty for failure to report.**

The Commissioner may suspend the license or permit to drive, and any nonresident operating privileges, of any person failing to report an accident as herein provided under section 3-18-5 of this chapter until the report has been filed. Any person convicted of failing to make a report as required herein shall be punished as provided in 3-99-1.

*For State Law basis of this section, see WV Code, §17C-4-10.*

### **Section 3-18-10. Accident reports confidential.**

All accident reports made by persons involved in accidents shall be without prejudice to the individual so reporting and shall be for the confidential use of the Police Department or other Municipal agencies or the appropriate State agencies having use for the records for accident prevention purposes, or for administration of the laws of this State regarding the deposit of security and proof of financial responsibility by persons driving or the owners of motor vehicles, except that the Police Department may disclose the identity of the person involved in an accident when the identity is not otherwise known or when the

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person denies his presence at the accident. No report shall be used as evidence in any trial, civil or criminal, arising out of an accident, except that the Police Department shall furnish upon demand of any person who has, or claims to have made a report or upon demand of any court, a certificate showing that a specified accident report has or has not been made to the department solely to prove a compliance or a failure to comply with the requirement that the report be made to the Municipal Police Department.

*For State Law basis of this section, see WV Code, § 17C-4-15.*

### **Article 19. Disposal of Abandoned or Junked Motor Vehicles and Household Appliances.**

#### **Section 3-19-1. Legislative findings; Statement of policy.**

The Municipal Council recognizes and declares that abandoned motor vehicles, junked motor vehicles and certain abandoned or inoperative household appliances are and constitute a public nuisance and hazard to both adults and children and, therefore, are dangerous and constitute a clear and present danger; that said abandoned motor vehicles, junked motor vehicles and certain abandoned or inoperative household appliances serve as harborage and breeding places for rodents, mosquitoes, fleas, ticks, mice, rats and other insects, pests and flies injurious to the public health, safety and general welfare; that abandoned motor vehicles and junked motor vehicles serve frequently as temporary or permanent places of human residence not conducive to public health, safety and welfare; that the accumulation and storage of any of such items or parts thereof on private or public property, including but not limited to highways, is hereby found to create a condition tending to reduce the value of private property and to promote blight and deterioration which if permitted to remain will continue to destroy the natural beauty of this Municipality and have adverse economic and social effects; that such abandoned motor vehicles junked motor vehicles and certain abandoned or inoperative household appliances constitute an attractive nuisance creating a hazard to the health and safety of minors; that such items are nearly always located on public highways, rights of way, or within sight of such highway rights of way and on private property within a reasonable proximity thereto; that all such visual pollution is a deterrent to economic development; and that it is in the public interest and welfare to provide for a program to eliminate the unsightly practice of abandoning motor vehicles and certain abandoned or inoperative household appliances. In view of these findings, the Municipal Council declares it to the public policy of the Municipality to eliminate the present danger resulting from abandoned motor vehicles, junked motor vehicles and certain abandoned or inoperative household appliances and to eliminate the visual pollution resulting from these items, and that in order to provide for the public health, safety and welfare, and quality of life, to enact legislation to that end by providing expeditious means and methods for effecting the disposal of abandoned motor vehicles, junked motor vehicles and certain abandoned household appliances. The Municipal Council further finds and declares that the presence of an abandoned motor vehicle, junked motor vehicle or an abandoned or inoperative household appliance, or any part thereof, on private or public property, including but not limited to highways, except as expressly hereinafter permitted, is a public nuisance

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injurious to the public health, safety and general welfare of the citizens of this Municipality which shall be abated as such by the methods provided in this article.

### **Section 3-19-2. Definitions.**

For the purposes of this article, the following words and phrases shall have the meanings respectively ascribed to them by this section:

- **Abandoned household appliance.** The term "abandoned household appliance" means a refrigerator, freezer, range, stove, automatic dishwasher, clothes washer, clothes dryer, trash compactor, television set, radio, air conditioning unit, commode, bed springs, mattress or other furniture, fixtures or appliances to which no person claims ownership and which is not in an enclosed building, a licensed salvage yard or the actual possession of a demolisher.
- **Abandoned motor vehicle.** The term "abandoned motor vehicle" means any motor vehicle, or major part thereof, which is inoperative and which has been abandoned on public property for any period of time over five days, other than in an enclosed building or in a licensed salvage yard or at the business establishment of a demolisher; or any motor vehicle, or major part thereof, which has remained on private property without consent of the owner or person in control of the property for any period of time over five days; or any motor vehicle, or major part thereof, which is unattended, discarded, deserted and unlicensed and is not in an enclosed building, a licensed salvage yard or the actual possession of a demolisher: Provided, That a motor vehicle, or major part thereof, shall not be considered an abandoned motor vehicle if: (a) The owner of the motor vehicle is storing the motor vehicle on the owner's property; (b) the motor vehicle is being stored for the purpose of using its parts on other motor vehicles owned by the owner; (c) the owner owns other motor vehicles similar to the motor vehicle being stored; and (d) the owner is a business licensed to do business in the state of West Virginia and not in the primary business of offering motor vehicles or parts thereof for sale.
- **Demolisher.** The term "demolisher" means any person licensed by the State commissioner of the division of highways whose business, to any extent or degree, is to convert a motor vehicle or any part thereof or an inoperative household appliance into processed scrap or scrap metal, or into saleable parts, or otherwise to wreck or dismantle vehicles or appliances.
- **Enclosed building.** The term "enclosed building" means a structure surrounded by walls or one continuous wall and having a roof enclosing the entire structure and includes a permanent appendage thereto.
- **Enforcement agency.** The term "enforcement agency" means and includes the municipal police department, a responsible public health department, the

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municipal building code enforcement officer, and any federal, state or county law enforcement agency with jurisdiction.

- Inoperative household appliance. The term "inoperative household appliance" means a refrigerator, freezer, range, stove, automatic dishwasher, clothes washer, clothes dryer, trash compactor, television set, radio, air conditioning unit, commode, bed springs, mattress or other furniture, fixture or appliance which by reason of mechanical or physical defects can no longer be used for its intended purpose, and which is either not serving a functional purpose or use or is not in an enclosed building, a licensed salvage yard or the actual possession of a demolisher.
- Junked motor vehicle. The term "junked motor vehicle" means a motor vehicle, or any part thereof, which (a) is discarded, wrecked, ruined, scrapped or dismantled; (b) cannot pass the State inspection required by article 16, Chapter 17C of the Code of West Virginia, and (c) is either not serving a functional purpose or use or is not in an enclosed building, a licensed salvage yard or the actual possession of a demolisher: Provided, That a motor vehicle, or major part thereof, shall not be considered a junked motor vehicle if: (a) The owner of the motor vehicle is storing the motor vehicle on the owner's property; (b) the motor vehicle is being stored for the purpose of using its parts on other motor vehicles owned by the owner; (c) the owner owns other motor vehicles similar to the motor vehicle being stored; and (d) the owner is a business licensed to do business in the State of West Virginia and not in the primary business of offering motor vehicles or parts thereof for sale.
- Licensed salvage yard. The term "licensed salvage yard" means a salvage yard licensed under article 23, chapter 17 of the Code of West Virginia.
- Motor vehicle. The term "motor vehicle" means a vehicle which is or was self-propelled, including but not limited to automobiles, trucks, buses and motorcycles.
- Person. The term "person" means a natural person, corporation, firm, partnership, association, or society and the plural as well as the singular.

*For State Law basis of this section, see WV Code, §17-24A-1.*

### **Section 3-19-3. Construction.**

The provisions of this article shall be liberally construed to accomplish the objectives and purposes as set forth herein.

### **Section 3-19-4. Abandonment of motor vehicle prohibited; inoperative household appliances prohibited in certain places; penalty.**

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- (a) No person shall, within the municipal boundaries of this Municipality, abandon a motor vehicle or major part thereof upon the right-of-way of any public highway, upon any other public property, or upon any private property without the consent of the owner or person in control of the property, or upon property owned or controlled by that person, unless it be at a licensed salvage yard or at the business establishment of a demolisher, or a business licensed to do business in the State of West Virginia and not in the primary business of offering motor vehicles or parts thereof for sale. Any person who violates any provision of this section shall be guilty of a misdemeanor and, upon conviction thereof, shall be sentenced and fined as set forth below.
- (b) No person shall, within the municipal boundaries of this Municipality, place or abandon any inoperative household appliance upon the right-of-way of any public highway or upon any other public property; nor shall any person, within this municipality, place or abandon any inoperative household appliance upon any private property unless it be at a licensed salvage yard, solid waste facility, other business authorized to accept such solid waste or at the business establishment of a demolisher. Any person who violates any provision of this section shall be guilty of a misdemeanor and, upon conviction thereof, shall be sentenced and fined as set forth below.
- (c) Any person who is guilty of a misdemeanor as described in this section and the abandoned motor vehicle, junked motor vehicle, or inoperative household appliance does not exceed one hundred pounds in weight or twenty-seven cubic feet in size is subject to a fine of not less than fifty dollars nor more than one thousand dollars or, in the discretion of the court, sentenced to perform community service by cleaning up litter from any public highway, road, street, alley or any other public park or public property or waters of the State, as designated by the court, for not less than eight nor more than sixteen hours, or both.
- (d) Any person who is guilty of a misdemeanor as described in this section and the abandoned motor vehicle, junked motor vehicle or inoperative household appliance is greater than one hundred pounds in weight or twenty-seven cubic feet in size, but less than five hundred pounds in weight or two hundred sixteen cubic feet, is subject to a fine of not less than five hundred dollars nor more than two thousand dollars or, in the discretion of the court, may be sentenced to perform community service by cleaning up litter from any public highway, road, street, alley or other public park or public property or waters of the Municipality as designated by the court, for not less than sixteen nor more than thirty-two hours, or both.

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- (e) Any person who is guilty of a misdemeanor as described in this section and the abandoned motor vehicle, junked motor vehicle or inoperative household appliance is greater than five hundred pounds in weight or two hundred sixteen cubic feet in size is subject to a fine not less than twenty-five hundred dollars or not more than twenty-five thousand dollars or confinement in a county or regional jail for not more than thirty days, or both. In addition, the violator may be guilty of creating or contributing to an open dump as defined in section two, article fifteen, chapter twenty-two of the West Virginia State Code and subject to the enforcement provision of section fifteen of said article.
- (f) Any person convicted of a second or subsequent violation of this section is subject to double the authorized range of fines and community service for the subsection violated.
- (g) The sentence of litter cleanup shall be verified by police officers from the Municipal Police Department or environmental inspectors from the division of environmental protection. Any defendant receiving the sentence of litter cleanup shall provide within a time to be set by the court written acknowledgment from a police officer or environmental inspector that the sentence has been completed and the litter has been disposed of lawfully.
- (h) Any person who has been found by the court to have willfully failed to comply with the terms of a litter cleanup sentence imposed by the court pursuant to this section is subject to at the discretion of the court, double the amount of original fines and community service penalties.

*For State Law basis of this section, see WV Code, §17-24A-2.*

### **Section 3-19-5. Authority to take possession of abandoned motor vehicles, junked motor vehicles, and inoperative household appliances.**

When the Police Department has knowledge of or discovers or finds any abandoned motor vehicle, junked motor vehicle or inoperative household appliance on either public or private property the Police Department may take it into its custody and possession. For that purpose, the Police Department may employ its own personnel, equipment and facilities or (subject to the availability of funds for such purpose) hire persons, equipment and facilities for the purpose of removing, preserving and storing abandoned motor vehicles, junked motor vehicles or inoperative household appliances: Provided, That before taking any abandoned motor vehicle or junked motor vehicle into custody and possession from private property, the Police Department shall give the private property owner and the owner of the motor vehicle, if ascertainable, a thirty-day notice by registered or certified mail that the action will be taken unless the motor vehicle is restored to a functional use.

*For State Law basis of this section, see WV Code, §17-24A-3.*

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### **Section 3-19-6. Abandoned or junked motor vehicles; notification to motor vehicle owner and lienholder; charges and fees; exceptions.**

- (a) The Police Department, having taken into its custody and possession an abandoned motor vehicle or junked motor vehicle shall, within fifteen days after taking custody and possession thereof, notify the last-known registered owner of motor vehicle and all lienholders of record that the motor vehicle has been taken into custody and possession, the notification to be by registered or certified mail, return receipt requested. The notice shall:
- (1) Contain a description of the motor vehicle, including the year, make, model, manufacturer's serial or identification number or any other number which may have been assigned to the motor vehicle by the State Commissioner of Motor Vehicles and any distinguishing marks;
  - (2) Set forth the location of the facility where the motor vehicle is being held and the location where the motor vehicle was taken into custody and possession; and
  - (3) Inform the owner and any lienholders of record of their right to reclaim the motor vehicle within ten days after the date notice was received by the owner or lienholders, upon payment of all towing, preservation and storage charges resulting from taking and placing the motor vehicle into custody and possession; and
  - (4) State that the failure of the owner or lienholders of record to exercise their right to reclaim the motor vehicle within the ten-day period shall be deemed a waiver by the owner and all lienholders of record of all right, title and interest in the motor vehicle and of their consent to the sale or disposal of the abandoned motor vehicle or junked motor vehicle at a public auction or to a licensed salvage yard or demolisher.
- (b) If the identity of the last registered owner of the abandoned motor vehicle or junked motor vehicle cannot be determined or if the certificate of registration or certificate of title contains no address for the owner or if it is impossible to determine with reasonable certainty the identity and addresses of all lienholders, notice shall be published as a Class I legal advertisement in compliance with the provisions of article 3, chapter 59 of the Code of West Virginia, the publication area shall be this county and the notice shall be sufficient to meet all requirements of notice pursuant to this article. Any notice by publication may contain multiple listings of abandoned motor vehicles and junked motor vehicles. The notice shall be

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published within fifteen days after the motor vehicle is taken into custody and possession and shall have the same contents required for a notice pursuant to subsection (a) of this section, except that the ten-day period shall run from the date such notice is published as aforesaid.

- (c) An enforcement agency which hires any person or entity to take into custody and possession an abandoned motor vehicle or junked vehicle pursuant to this section, shall notify the person or entity hired of the name and address of the registered owner of the motor vehicle, if known, and all lienholders of record, if any, within fifteen days after the vehicle is taken into custody and possession: Provided, That the requirements of this subsection shall not apply to motor vehicles for which the registered owner cannot be ascertained by due diligence or investigation.
- (d) The person or entity hired by an enforcement agency to take into custody or possession an abandoned motor vehicle or junked motor vehicle shall, within thirty days after the possession, notify the registered owner of the vehicle and all lienholders of record, if any, as identified by the enforcement agency pursuant to subsection (c) of this section, by registered mail, return receipt requested, that the motor vehicle has been taken into custody and possession. The notice shall have the same contents required for a notice pursuant to subsection (a) of this section, including the ten-day period the owner or lienholder has to reclaim the motor vehicle. Upon the issuance of the notice, the identified owner of the motor vehicle is liable and responsible for all costs for towing, preservation and storage of the motor vehicle: Provided, That failure to issue the notice required by this subsection within thirty days after possession of the motor vehicle relieves the identified owner of the motor vehicle of any liability for charges for towing, preservation and storage in excess of the sum of the first five days of the charges: Provided, however, That the requirements of this subsection do not apply to motor vehicles for which the registered owner thereof cannot be ascertained by due diligence or investigation.
- (e) For an abandoned motor vehicle or junked vehicle having a loan value of two thousand five hundred dollars or less, ascertained by values placed upon motor vehicles using a standard industry reference book, a person or entity hired by an enforcement agency to tow the abandoned motor vehicle or junked motor vehicle may, if the motor vehicle is not claimed by the owner or lienholder after notice within the time set forth in subsection (d) of this section or if the identity of the last registered owner of the abandoned motor vehicle or junked motor vehicle cannot be determined or if the certificate of registration or certificate of title contains no address of the owner or if it is impossible to determine with reasonable certainty the identity and address of all lienholders after publication as set forth in subsection (b) of this section, file an application with the Division of

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Motor Vehicles for a certificate of title and registration which, upon payment of the appropriate fees, shall be issued. The person or entity may then sell the motor vehicle at private sale or public auction.

- (f) For an abandoned motor or junked motor vehicle having a loan value of two thousand five hundred dollars or less, as ascertained by values placed upon motor vehicles using a standard industry reference book, a licensed motor vehicle dealer, as defined in section one, article one, chapter seventeen-a of the West Virginia Code, or a motor vehicle repair facility may, if a motor vehicle is abandoned on the property or place of business of the dealer or a motor vehicle repair facility and is not claimed by the owner or a lienholder after notice within the time set forth in subsection (d) of this section or if the identity of the last registered owner of the abandoned motor vehicle cannot be determined or if the certificate of registration or certificate of title contains no address of the owner or if it is impossible to determine with reasonable certainty the identity and address of all lienholders after publication as set forth in subsection (b) of this section, file an application with the Division of Motor Vehicles for a certificate of title and registration which, upon payment of the appropriate fees, shall be issued. The dealer or motor vehicle repair facility may then sell the motor vehicle at private sale or public auction.

*For State Law basis of this section, see WV Code, §17-24A-4.*

### **Section 3-19-7. Disposal of abandoned motor vehicles, junked motor vehicles, and inoperative or abandoned household appliances.**

- (a) If an abandoned motor vehicle or junked motor vehicle is not reclaimed as provided in section 3-19-6, the Police Department shall sell it either at a public auction or to a licensed salvage yard or demolisher. The purchaser of the motor vehicle shall take title to the motor vehicle free and clear of all liens and claims of ownership, and shall receive a sales receipt from the Police Department. The sales receipt at such sale shall be sufficient title only for purposes of transferring the motor vehicle to a licensed salvage yard or to a demolisher for demolition, wrecking or dismantling, and no further titling of the motor vehicle shall be necessary by either the purchaser at the auction, the licensed salvage yard or the demolisher, who shall be exempt from the payment of any fees and taxes required under article 3, chapter 17A of the Code of West Virginia: Provided, That the purchaser at the auction must place the motor vehicle in the possession of a licensed salvage yard or demolisher within twenty days from the date he or she purchased the motor vehicle and the licensed salvage yards or demolisher must demolish, wreck or dismantle the motor vehicle within six months after taking possession of the motor vehicle and if the licensed salvage yard or demolisher does not, the licensed salvage yard or demolisher shall be required to pay all fees and taxes required under article 3, chapter 17A of the Code of West Virginia.

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- (b) When the Police Department has in its custody and possession inoperative or abandoned household appliances collected in accordance with 3-19-9, it shall sell the property from time to time at public auction or to a licensed salvage yard or demolisher.

*For State Law basis of this section, see WV Code, §17-24A-5.*

### **Section 3-19-8. Proceeds from sale of abandoned motor vehicles, junked motor vehicles and inoperative household appliances.**

From the proceeds of any sale, the Municipality shall reimburse itself for any expenses it may have incurred in removing, towing, preserving and storing said property and the expenses of conducting any auction and any notice and publication expenses incurred pursuant to this article.

Any remainder from the proceeds of the sale of an abandoned motor vehicle or junked motor vehicle after payment of expenses shall be deposited in the Municipal treasury to be kept and maintained as a special revolving account, designated as the "abandoned and junked property fund." Provided, That any remainder from the proceeds of the sale of an abandoned motor vehicle or junked motor vehicle after payment of such expenses shall be held for the last registered owner of such motor vehicle or any lienholder for ninety days, after which time, if no owner or lienholder claims the remainder, it shall be deposited in said special fund.

Any money so collected and deposited in such special fund shall be used solely for the payment of auction, towing, removing, preserving, storing, notice and publication costs which results from taking other abandoned motor vehicles, junked motor vehicles, old vehicle tires and inoperative or abandoned household appliances into custody and possession: Provided, That whenever the abandoned and junked vehicle fund exceeds the sum of five hundred dollars the Municipal Council may, by resolution, transfer such excess to the general fund.

*For State Law basis of this section, see WV Code, §17-24A-6.*

### **Section 3-19-9. Injunctive relief; additional remedy.**

In addition to all other remedies provided for in this article, the Municipal attorney, of his own volition or at the instance of any citizen, resident or taxpayer of the Municipality, may apply to the circuit court, or the judge thereof in vacation, for an injunction to restrain, prevent or abate the maintenance and storage of abandoned motor vehicles, junked motor vehicles, or inoperative household appliances, in violation of any provision of this article.

*For State Law basis of this section, see WV Code, §17-24A-7.*

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### **Article 20. Operation of Bicycles and Play Vehicles.**

#### **Section 3-20-1. Obedience to article; duty of parents and guardians; applicability of article to bicycles.**

- (a) It is a misdemeanor for any person to do any act forbidden or fail to perform any act required in this article.
- (b) The parent of any child and the guardian of any ward shall not authorize or knowingly permit any such child or ward to violate any of the provisions of this article.
- (c) These regulations applicable to bicycles shall apply whenever a bicycle is operated upon any street, roadway or alley or upon any path set aside for the exclusive use of bicycles, subject to those exceptions stated herein.

*For State Law basis of this section, see WV Code, §17C-11-1.*

#### **Section 3-20-2. Traffic laws applied to persons riding bicycles.**

Every person riding a bicycle upon a street shall be granted all of the rights and shall be subject to all of the duties applicable to a driver of a vehicle by this chapter, except regarding special regulations in this article and except regarding those provisions of this chapter which by their nature can have no application.

*For State Law basis of this section, see WV Code, §17C-11-2.*

#### **Section 3-20-3. Riding on bicycle seats; carrying more than one person on bicycle.**

- (a) A person propelling a bicycle shall not ride other than upon or astride a permanent and regular seat attached thereto.
- (b) No bicycle shall be used to carry more persons at one time than the number for which it is designed and equipped.

*For State Law basis of this section, see WV Code, §17C-11-3.*

#### **Section 3-20-4. Clinging to vehicles.**

No person riding upon any bicycle, coaster, roller skates, sled or toy vehicle shall attach the same or himself to any vehicle upon a street.

*For State Law basis of this section, see WV Code, §17C-11-4.*

#### **Section 3-20-5. Riding on roadways and bicycle paths.**

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- (a) Every person operating a bicycle upon a street, roadway or alley shall ride as near to the right side of the street as practicable, exercising due care when passing a standing vehicle or one proceeding in the same direction.
- (b) Persons riding bicycles upon a street or public way shall not ride more than two abreast except on paths or parts of streets or alleys set aside for the exclusive use of bicycles.
- (c) Whenever a usable path for bicycles has been provided adjacent to a street, bicycle riders shall use such paths and shall not use the street.

*For State Law basis of this section, see WV Code, §17C-11-5.*

### **Section 3-20-6. Carrying articles.**

No person operating a bicycle shall carry any package, bundle or article which prevents the driver from keeping at least one hand upon the handlebars.

*For State Law basis of this section, see WV Code, §17C-11-6*

### **Section 3-20-7. Lamps and other equipment on bicycles.**

- (a) Every bicycle when in use at nighttime shall be equipped with a lamp on the front which shall emit a white light visible from a distance of at least five hundred feet to the front and with a red reflector on the rear of a type approved by the State department of motor vehicles which shall be visible from all distances from fifty feet to three hundred feet to the rear when directly in front of a lawful upper beam of headlamps on a motor vehicle. A lamp emitting a red light visible from a distance of five hundred feet to the rear may be used in addition to the red reflector.
- (b) No person shall operate a bicycle unless it is equipped with a bell or other device capable of giving a signal audible for a distance of at least one hundred feet, except that a bicycle shall not be equipped nor shall any person use upon a bicycle any siren or whistle.
- (c) Every bicycle shall be equipped with a brake which will enable the operator to make the braked wheels skid on dry, level, clean pavement.

*For State Law basis of this section, see WV Code, §17C-11-7*

## **Article 21. Child Bicycle Safety Act.**

### **Section 3-21-1. Legislative findings and purpose.**

- (a) The Legislature hereby finds and declares that:

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- (1) Disability and death of children resulting from injuries sustained in bicycling accidents are a serious threat to the public health, welfare and safety of the people of this State, and the prevention of such disability and death is a goal of such people;
  - (2) Head injuries are the leading cause of disability and death from bicycling accidents; and
  - (3) The risk of head injury from bicycling accidents is significantly reduced for bicyclists who wear proper protective bicycle helmets; yet helmets are worn by fewer than five percent of child bicyclists nationwide.
- (b) The purpose of this article is to reduce the incidence of disability and death resulting from injuries incurred in bicycling accidents by requiring that while riding on a bicycle or public roads, public bicycle paths and other public rights-of-way of this Municipality, all bicycle operators and passengers under fifteen years of age wear approved protective bicycle helmets.

*For State Law basis of this section, see WV Code, § 17C-11A-2.*

### **Section 3-21-2. Definitions.**

As used in this article:

- (a) “Bicycle” means a human-powered vehicle with wheels designed to transport, by the action of pedaling, one or more persons seated on one or more saddle seats on its frame. Such term also includes a human-powered vehicle, and any attachment to such vehicle designed to transport by pedaling when the vehicle is used on a public roadway, public bicycle path or other public right-of-way, but does not include a tricycle.
- (b) “Tricycle” means a three-wheeled human-powered vehicle designed for use as a toy by a single child under the age of six years, the seat of which is not more than two feet from ground level.
- (c) “Public roadway” means a right-of-way under the jurisdiction and control of this Municipality thereof for use primarily by motor vehicles.
- (d) “Public bicycle path” means a right-of-way under the jurisdiction and control of this Municipality thereof for use primarily by bicycles and pedestrians.
- (e) “Other public right-of-way” means any right-of-way other than a public roadway or public bicycle path that is under the jurisdiction and control of

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this Municipality thereof and is designed for use and used by vehicular or pedestrian traffic.

- (f) “Protective bicycle helmet” means a piece of headgear which meets or exceeds the impact standards for protective bicycle helmets set by the American National Standards Institute (ANSI) or the Snell Memorial Foundation’s standards for protective headgear or American Society for Testing and Materials (ASTM) for use in bicycling.
- (g) “Passenger” means any person who travels on a bicycle in any manner except as an operator.
- (h) “Operator” means a person who travels on a bicycle seated on a saddle seat from which that person is intended to and can pedal the bicycle.

*For State Law basis of this section, see WV Code, §17C-11A-3.*

### **Section 3-21-3. Requirements for helmet use.**

- (a) It is unlawful for any person under fifteen years of age to operate or be a passenger on a bicycle or any attachment to a bicycle used on a public roadway, public bicycle path or other public right-of-way unless at all times when the person is so engaged he or she wears a protective bicycle helmet of good fit, fastened securely upon the head with the straps of the helmet.
- (b) It is unlawful for any parent or legal guardian of a person under fifteen years of age to knowingly permit such person to operate or be a passenger on a bicycle or on any attachment to a bicycle used on a public roadway, at all times when the person is so engaged he or she wears a protective bicycle helmet of good fit, fastened securely upon the head with the straps of the helmet.

*For State Law basis of this section, see WV Code, §17C-11A-4.*

### **Section 3-21-4. Civil actions.**

A violation of section 3-21-3 of this article is not admissible as evidence of negligence or contributory negligence or comparative negligence in any civil action or proceeding for damages, and shall not be admissible in mitigation of damages.

### **Section 3-21-5. Penalties.**

- (a) Any parent or legal guardian violating any requirement set forth in section 3-21-3 of this chapter shall be fined ten dollars or be required to perform two hours in community service related to a child injury prevention program which includes injury prevention education or both fined and

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required to perform such community service. Notwithstanding the provisions of chapter eight, article eleven, section one of the West Virginia State Code, no court costs may be assessed to any person violating the requirements of section 3-9-3 of this chapter.

- (b) In the case of a first violation of section 3-9-3 of this chapter, the court may waive the fine upon receipt of satisfactory proof that the person has a helmet or within a reasonable time from the date of the violation, purchased or otherwise obtained, a protective bicycle helmet.
- (c) It is an absolute defense to a charge for a violation of this article that a parent or legal guardian is unable to pay for the protective bicycle helmet. Inability to pay may be demonstrated by the filing of a financial affidavit in accordance with the provisions of subsection (c), section one, article two, chapter fifty-nine of the West Virginia State Code. Any person who demonstrates inability to pay shall be referred to the Governor's Highway Safety Program for assistance in obtaining the appropriate helmet or helmets.

*For State Law basis of this section, see WV Code, §17C-11A-7.*

### **Article 22. Pedestrians' Rights and Duties.**

#### **Section 3-22-1. Pedestrians subject to traffic regulations.**

- (a) Pedestrians shall be subject to traffic control signals at intersections within this Municipality.
- (b) Pedestrians are hereby prohibited from crossing any street in a business district of this Municipality except at marked crosswalks or at intersections.

*For State Law basis of this section, see WV Code, §17C-10-1.*

#### **Section 3-22-2. Pedestrians' right-of-way in crosswalks.**

- (a) When traffic control signals are not in place or not in operation, the driver of a vehicle shall yield the right-of-way, slowing down or stopping if need be to so yield, to the pedestrian crossing the street within a crosswalk when the pedestrian is upon the half of the street upon which the vehicle is traveling, or when the pedestrian is approaching so closely from the opposite half of the street regarding be in danger, but no pedestrian shall suddenly leave a curb or other place of safety and walk or run into the path of a vehicle which is so close that it is impossible for the driver to yield.
- (b) Whenever any vehicle is stopped at a marked crosswalk or at any unmarked crosswalk at an intersection to permit a pedestrian to cross the

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street, the driver of any other vehicle approaching from the rear shall not overtake and pass said stopped vehicle.

*For State Law basis of this section, see WV Code, §17C-10-2.*

### **Section 3-22-3. Crossing at other than crosswalks.**

Every pedestrian crossing a street at any point other than within a marked crosswalk or within an unmarked crosswalk at an intersection shall yield the right-of-way to all vehicles upon the street.

*For State Law basis of this section, see WV Code, §17C-10-3, subsection (a).*

### **Section 3-22-4. Drivers to exercise due care.**

Notwithstanding the foregoing provisions of this article, every driver of a vehicle shall exercise due care to avoid colliding with any pedestrian upon any street or alley and shall give warning by sounding the horn when necessary and shall exercise proper precaution upon observing any child or any confused or incapacitated person upon a street.

*For State Law basis of this section, see WV Code, §17C-10-4.*

### **Section 3-22-5. Pedestrians on roadways; soliciting rides.**

- (a) Where sidewalks are provided, it shall be unlawful for any pedestrian to walk along and upon an adjacent roadway.
- (b) Where sidewalks are not provided, any pedestrian walking along and upon a street shall when practicable walk only on the left side of the roadway or its shoulder, facing traffic which may approach from the opposite direction.
- (c) No person shall stand in a roadway for the purpose of soliciting a ride from a driver of any vehicle.

*For State Law basis of this section, see WV Code, §17C-10-6.*

### **Section 3-22-6. Penalty for pedestrians violating the provisions of this article.**

Any person violating the provisions of this article is guilty of a misdemeanor and, upon conviction thereof, shall be fined not more than one hundred dollars; upon a second conviction within one year thereafter, shall be fined not more than two hundred dollars; and upon a third or subsequent conviction, shall be fined not more than five hundred dollars.

*For State Law basis of this section, see WV Code, §17C-10-7.*

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### **Section 3-22-7. Standard of care to be exercised by and with respect to persons who are blind or who have a disability.**

- (a) A person who is blind or who has a disability shall exercise that degree of care for his or her own safety in any of the places, accommodations or conveyances specified in section four of this article which an ordinarily prudent person would exercise under similar circumstances.
- (b) The driver of a vehicle approaching a pedestrian who is blind or who has a disability and who knows, or in the exercise of reasonable care should know, that the pedestrian is blind because the pedestrian is carrying a cane predominantly white or metallic in color, with or without a red tip, or is using a service animal or otherwise, shall exercise care commensurate with the situation to avoid injuring the pedestrian or the service animal.

*For corresponding provisions of State Law, see WV Code, §5-15-5.*

### **Section 3-22-8. Persons working on streets and highways.**

The driver of a vehicle shall yield the right-of-way to persons engaged in maintenance of construction work on a street or highway whenever he is notified of their presence by an official traffic-control device or a flagman.

*For State Law basis of this section, see WV Code, §17C-10-8.*

## **Article 23. Stopping, Standing and Parking.**

### **Section 3-23-1. Traffic control parking sign directives must be obeyed; authority of Municipal Council to erect traffic control parking signs.**

- (a) At any place where an official traffic control sign is in place, indicating that parking at that place is prohibited, or is prohibited during certain hours of the day or days of the week or in excess of a certain period of time, or is restricted to certain vehicles or certain uses, or is limited in any other respect, no person shall stand or park a vehicle or permit a vehicle to remain standing or parked at such place in violation of the prohibition or limitation indicated by such sign.
- (b) The Municipal Council may designate streets and public places, or portions thereof, within the Municipality upon which or at which parking shall be prohibited, restricted or limited in the manner and to the extent as may be considered necessary by the Council for the regulation of the use of the streets and public places in the best interests of the public, and may direct the Chief of Police or other appropriate Municipal officer to place or cause to be placed traffic control signs at the places to give notice of the prohibitions, restrictions or limitations so imposed. Included within the meaning of this section, the following traffic control signs, among other

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not specified herein, are the following: (1) No parking at any time; (2) no parking between 4:00 P.M. and 6:00 P.M.; (3) two hour parking; (4) parking prohibited except Sundays and holidays; (5) no parking this side of street; (6) no parking from here to corner; (7) bus stop; (8) safety zone; (9) physician parking only; (10) official cars only; and (11) other prohibitions, restrictions and limitations on parking, as determined by the Municipal Council.

- (c) In any case where, by State Law, permission of the State Department of Highways or other State authority is required prior to erection of any traffic control sign, permission shall be obtained prior to installation of the sign.

### **Section 3-23-2. Stopping, standing or parking prohibited in specified places.**

- (a) No person shall stop, stand or park a vehicle, except when necessary to avoid conflict with other traffic or in compliance with law or the directions of a police officer or traffic control device, in any of the following places:
  - (1) On a sidewalk;
  - (2) In front of a public or private driveway;
  - (3) Within an intersection;
  - (4) Within fifteen feet of a fire hydrant;
  - (5) In a properly designated fire lane;
  - (6) On a crosswalk;
  - (7) Within twenty feet of a crosswalk or an intersection;
  - (8) Within thirty feet from the approach to any flashing beacon, stop sign or traffic control signal located at the side of the roadway;
  - (9) Between a safety zone and the adjacent curb or within thirty feet of points on the curb immediately opposite the ends of a safety zone, unless a different length is indicated by signs or markings;
  - (10) Within twenty feet of a driveway entrance to any fire station and on the side of the street opposite the entrance of any fire station within seventy-five feet of the entrance (when properly signposted);

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- (11) Alongside or opposite any street excavation or obstruction when stopping, standing or parking would obstruct traffic;
  - (12) On the roadway side of any vehicle stopped or parked at the edge or curb of a street;
  - (13) Upon any bridge or other elevated structure upon a street or alley;
  - (14) At any place where official signs prohibit stopping;
  - (15) Within twenty feet of any mail receptacle served regularly by a carrier using a motor vehicle for daily deliveries, if the parking interferes with or causes delay in the carrier's schedule;
  - (16) At any place on any street or alley where the safety and convenience of the traveling public is thereby endangered.
  - (17) In front of a wheelchair accessible ramp or curb cut which is part of a sidewalk designed for use by the general public when the ramp or curb cut is properly marked with blue paint.
- (b) No person shall move a vehicle not lawfully under his or her control into any prohibited area or away from a curb when the movement away from the curb violates the provisions of this section.
- (c) Any person violating the provisions of this section is guilty of a misdemeanor and, upon conviction thereof, shall be fined not more than one hundred dollars; upon a second conviction within one year thereafter, shall be fined not more than two hundred dollars; and upon a third or subsequent conviction, shall be fined not more than five hundred dollars.

*For State Law basis of this section, see WV Code, §§17C-13-3.*

### **Section 3-23-3. Repairing or washing motor vehicles in streets prohibited.**

No person shall use any public street of the Municipality as a place to repair or wash motor vehicles, except in cases of emergency.

### **Section 3-23-4. Entering, moving and impounding vehicles parked illegally; costs to be paid by vehicle owner.**

- (a) Any vehicle parked in a manner as to constitute a violation of this article, or parked in a place where parking is prohibited by this article, or is parked in a manner as to constitute an obstruction to traffic or a danger to persons or property, may be entered, moved and impounded by the Municipality under the direction of the Police Department.

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- (b) The owner of any vehicle impounded as provided by subsection (a) of this section shall pay the cost of moving and impounding such vehicle in addition to any fine and costs assessed in connection with the violation of this chapter.

### **Section 3-23-5. Removal of wrecked or unattended vehicle from roadway.**

If any motor vehicle or wagon be wrecked or unattended on any roadway in the Municipality, and no arrangement is made for the immediate removal thereof, the police, in order to open the street to the flow of traffic, shall cause the vehicle to be towed to a safe place of storage. The cost of removal and storage shall be paid by the owner of the vehicle to the person removing and storing the vehicle. In the event that the vehicle is not called for by the owner within sixty days, then and in that event, the person so removing the vehicle shall be permitted to proceed against the vehicle for rent, storage and towing under the laws of the State made and provided for the collection of such charge or charges. The police officer designating the work and services performed, shall be deemed to be the agent of the owner.

### **Section 3-23-6. Parking restrictions on dangerous cargo.**

No vehicle or trailer containing dangerous bulk cargo shall park on any street, parking lot, public place, or privately owned property without specific written permission from the Chief of Police. Dangerous cargo is defined as materials which are highly flammable (except those petroleum products normally sold to the general public) or explosive or have other characteristics which cause them to be public hazards. These materials include but are not limited to the following: dynamite and other commercial explosives, poisonous commercial or industrial gases, radioactive materials, ammunition (in excess of 500 lbs.), and caps for igniting explosives. Violation of this section shall be punished as provided in section 3-99-1.

### **Section 3-23-7. Parking close to curb.**

Every vehicle stopped or parked upon a street shall be so stopped or parked with the curb side wheels of the vehicle parallel to and within twelve inches from the curb or edge of the street.

*For corresponding provisions of State Law, see WV Code, §17C-13-4.*

### **Section 3-23-8. Angle parking.**

Angle parking shall be lawful only at those places designated for angle parking by official traffic control signs or markings; and when such markings indicate on the roadway spaces within which vehicles are to be parked, it shall be unlawful for any person to park a vehicle in any such space in such manner that any portion of the vehicle protrudes beyond the parking space.

*For State Law basis of this section, see WV Code, §17C-13-4, subsection (C).*

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### **Section 3-23-9. Prohibited parking zones designated by yellow paint.**

No person shall stand or park a vehicle adjacent to a curb which is painted yellow by authority of the Municipal Council, except momentarily to take or to discharge passengers and then for no longer than three minutes.

### **Section 3-23-10. Loading zones.**

No person shall stand or park a vehicle adjacent to a curb which is marked or posted as a loading zone by authority of the Municipal Council, except that the owner or occupant of the premises abutting such curb, and persons having business with such owner or occupant, may stand or park vehicles thereat for the purpose of loading or unloading cargo, but only for such period of time as is necessary for such purpose: Provided, That other persons may stop their vehicles thereat momentarily, for no longer than three minutes, for the purpose of taking on or discharging passengers when such space is not required by another vehicle for the loading or unloading of cargo.

### **Section 3-23-11. Bus stops and stands.**

- (a) The driver of a bus shall not stand or park upon any street in any business district at any place other than at a stop or stand officially designated and appropriately assigned to such bus, except that this provision shall not prevent the driver of any such vehicle from temporarily stopping in accordance with other stopping and parking regulations at any place for the purpose of, and while actually engaged in loading or unloading passengers.
- (b) No person shall stop, stand or park a vehicle other than a bus in a bus stop, when the stop or stand has been officially designated and appropriately signed or marked, except that the driver of a private passenger vehicle may temporarily stop therein for the purpose of and while actually loading and unloading passengers when such stopping does not interfere with any bus waiting to enter or about to enter such stop or stand.
- (c) The Chief of Police, upon approval of the Municipal Council, shall have the authority to establish and lay off upon the streets such number of bus stops as in his opinion are necessary for the convenience of the public. In designating such stops he shall indicate by appropriate signs or markings the area in which public uses may stop to receive and discharge passengers and shall indicate by large letters painted within the area that such area is a bus stop and that parking therein is prohibited.

### **Section 3-23-12. Owner responsible for illegal parking.**

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No person shall allow, permit or suffer any vehicle registered in his name to stand or park in any street or public place in this Municipality in violation of the provisions of this article.

### **Section 3-23-13. Presumption regarding illegal parking and condition precedent thereto.**

- (a) In any prosecution in the Municipal Court charging the violation of any provision of this article, proof that the particular vehicle described in the complaint was parked in violation of that provision, together with proof that the defendant named in the complaint was, at the time of the alleged violation the registered owner of the vehicle, shall constitute prima facie evidence that the registered owner of the vehicle was the person who parked the vehicle at the point where, and for the time during which, such alleged violation occurred: Provided, That the prima facie presumption may be rebutted by competent evidence.
- (b) This section shall not be applicable unless the driver of the vehicle described in the complaint was given notice of the alleged violation or, if the vehicle was unattended at the time of discovery of the alleged violation, notice of the alleged violation was affixed to or placed within or upon the vehicle.

### **Section 3-23-14. Reports by police officers of violations; notice to owner or operator of vehicles; payment of penalty.**

When a police officer of this Municipality has placed on any vehicle a notice to the owner or operator thereof that a vehicle has been in violation of any of the provisions of this division and the notice instructs the owner or operator to report to police headquarters in the municipal building in regard to the violation, each such owner or operator may, within twenty-four hours of the time when the notice was attached to the vehicle, pay to the Clerk of the Municipal Court at the municipal building, as a penalty for and in full satisfaction of the violation, that sum of money set forth in section 3-23-15 as a penalty which the Municipal Council by appropriate resolution and order may prescribe as the minimum fine for such violation. The minimum fine for each such violation, after so fixed by the Municipal Council, shall be printed on the reverse side of the notice which the police officer places on the offending vehicle. The failure of such owner or operator to make such payment within twenty-four hours shall render such owner or operator subject to the penalties hereinafter provided for a violation of the provisions of this division.

### **Section 3-23-15. Penalties.**

Any person violating any of the provisions of this article, unless otherwise therein provided, upon conviction thereof, shall be fined not more than fifty dollars for each offense.

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### **Article 24. Parties, Procedures Upon Arrest and Reports in Criminal Cases.**

#### **Section 3-24-1. Parties to a crime.**

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

*For State Law basis of this section, see WV Code, §17C-19-1.*

#### **Section 3-24-2. Offenses by persons owning or controlling vehicles.**

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

If the owner of a motor vehicle is present in the vehicle at a time when another driver is operating the vehicle upon the streets of this Municipality: (1) with defective or improper equipment in violation of the provisions of 3-16-1 of this chapter; (2) in violation of the weight, height, length or width provisions of 17C-17-1 of the West Virginia State Code; (3) with improper registration in violation of the provisions of 3-7-1 of this chapter; or (4) with an expired vehicle inspection decal or certificate in violation of 3-9-3 of this chapter, the owner rather than the driver shall be arrested for any violation enumerated herein in lieu of an arrest of the driver. If the owner of the vehicle is not present therein, then the driver shall be arrested for any violation enumerated in this section.

*For State Law basis of this section, see WV Code, §17C-19-2.*

#### **Section 3-24-3. When bond required of alleged violators.**

Upon the arrest of any person for the violation of this Traffic Ordinance where immediate trial of the person cannot be had, a bond of not less than ten dollars nor more than the maximum fine and costs which may be imposed for the alleged violation shall be required of the person before he is released from custody, and the bond shall not be accepted, unless it be a guaranteed arrest bond certificate as defined by section 17C-19-10 of the Code of West Virginia, or be in cash, or be in writing signed as surety by one or more persons, known by the officer taking the bond to be substantial, reputable and responsible persons. Upon the failure of the person to arrange to bond herein required, the person shall be placed in jail until the bond is procured or until a trial for the violation or violations is had.

*For State Law basis of this section, see WV Code, §17C-19-10.*

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### **Section 3-24-4. When person arrested to be given five days' notice to appear in court.**

- (a) Whenever a person is arrested for any violation of this chapter punishable as a misdemeanor, and the person is not immediately taken before the Municipal Judge or Court as hereinbefore required, the arresting officer shall prepare written notice to appear in court, containing the name and address of the person, the license number of his vehicle, if the offense charged, and the time and place when and where the person is to appear in court.
- (b) The time specified in the notice to appear must be at least five days after the arrest unless the person arrested shall demand an earlier hearing.
- (c) The place specified in the notice to appear must be before the Municipal Judge or Court.
- (d) The arrested person in order to secure release, as provided in this section, must accept a copy of the written notice prepared by the arresting officer. The officer shall deliver a copy of the notice to the person promising to appear. Thereupon, the officer shall forthwith release the person arrested from custody.

*For State Law basis of this section, see WV Code, §17C-19-4.*

### **Section 3-24-5. Procedure prescribed herein not exclusive.**

The following provisions of this article shall govern all police officers in making arrests without a warrant for violations of this chapter, but the procedure prescribed herein shall not otherwise be exclusive of any other method prescribed by law for the arrest and prosecution of a person for an offense of like grade.

*For State Law basis of this section, see WV Code, §17C-19-5.*

### **Section 3-24-6. Form for and records of books of traffic citations.**

- (a) The Police Department shall provide in appropriate form traffic citations containing notices to appear which shall be issued in books with citations in quadruplicate and meeting the requirements of this article.
- (b) The Chief of Police shall be responsible for the issuance of the books and shall maintain a record of every the book and each citation contained therein issued to individual members of the department and shall require and retain a receipt for every book so issued.

*For State Law basis of this section, see WV Code, §17C-19-6.*

## Ronceverte Municipal Code

### **Section 3-24-7. Disposition and records of traffic citations.**

- (a) Every traffic enforcement officer upon issuing a traffic citation to an alleged violator of any provision of the motor vehicle laws of this State or of any provision of this chapter or other traffic ordinance of the Municipality shall deposit the original or a copy of such traffic citation with a court having jurisdiction over the alleged offense.
- (b) Upon the deposit of the original or a copy of such traffic citation with a court having jurisdiction over the alleged offense as aforesaid, the original or copy of the traffic citation may be disposed of only by trial in the court or other official action by a judge of the court, including forfeiture of the bail or by the deposit of sufficient bail with or payment of a fine by the person to whom the traffic citation has been issued by the traffic enforcement officer.
- (c) It is unlawful and official misconduct for any traffic enforcement officer or other officer or public employee to dispose of a traffic citation or copies thereof or of the record of the issuance of the same in a manner other than as required herein.
- (d) The Chief of Police shall require the return to him of a copy of every traffic citation issued by an officer under his supervision to an alleged violator of any traffic law or ordinance and of all copies of every traffic citation which has been spoiled or upon which any entry has been made and not issued to an alleged violator.
- (e) The Chief of Police shall also maintain or cause to be maintained in connection with every traffic citation issued by an officer under his supervision a record of the disposition of the charge by the court in which the original or copy of the traffic citation was deposited.

*For State Law basis of this section, see WV Code, §17C-19-7.*

### **Article 25. Failure to Appear.**

#### **Section 3-25-1. Failure to obey notice or condition of bond.**

- (a) Any person who shall fail to appear in response to a notice given as provided in Section 3-24-4 or in response to any bond given for his appearance, to answer a violation of any of the provisions of this chapter, shall be guilty of an offense against this section regardless of the disposition of the traffic violation he was so summoned or gave bond to appear and answer, and may be punished for such offense of not appearing, in the same manner and to the same extent as for the violation

## **Chapter 3 Vehicles and Traffic**

he was notified or gave bond to appear and answer, and such punishment may be in addition to the punishment given for such traffic violation.

- (b) Any person failing to appear in answer to any notice or bond given for his appearance to answer a violation of any of the provisions of this chapter shall have his bond forfeited, and may be arrested on a warrant issued by the Municipal Judge, charging him with such failure to appear and be dealt with as herein provided.

### **Article 26. Security upon Motor Vehicles.**

#### **Section 3-26-1. Security (Insurance) upon motor vehicles.**

Every owner or registrant of a motor vehicle required to be registered and licensed in this State shall maintain security as hereinafter provided in effect continuously throughout the registration or licensing period except in the case of a periodic use or seasonal vehicle, in which case the owner or registrant is required to maintain security upon the vehicle only for the portion of the year the vehicle is in actual use. As used in this section, a periodic use or seasonal vehicle means a recreational vehicle, antique motor vehicle, motorcycle or other motor vehicle which is stored part of the year and is used seasonally.

Every nonresident owner or registrant of a motor vehicle, which is operated upon any road or highway of this Municipality, and which has been physically present within this State for more than thirty days during the preceding three hundred sixty-five days, shall thereafter maintain security as hereinafter provided in effect continuously throughout the period such motor vehicle remains in this State.

No person shall knowingly drive or operate upon any road or highway in this Municipality any motor vehicle upon which security is required by the provisions of this section unless the security is in effect.

Such security shall be provided by one of the following methods:

- (a) By an insurance policy delivered or issued for the delivery in this State by an insurance company authorized to issue vehicle liability and property insurance policies in this State within limits which shall be no less than the requirements of 17D-4-2 of the Code of West Virginia, or
- (b) By any other method approved by the commissioner of the Division of Motor Vehicles of this State as affording security equivalent to that offered by the policy of insurance, including qualification as a self-insurer under the provisions of 17D-6-2 of the Code of West Virginia.
- (c) By depositing with the State Treasurer such cash or other securities in the manner set forth in 17D-4-16 of the Code of West Virginia.

## Ronceverte Municipal Code

The requirements of this section shall not apply to any motor vehicle owned by the State or by a political subdivision of this State, nor to any motor vehicle owned by the federal government.

Every person convicted of a violation of the provisions of this section shall be guilty of a misdemeanor and shall be fined not less than two hundred dollars nor more than five thousand dollars, or imprisoned in the county jail not less than fifteen days nor more than thirty days, or both.

*For State Law basis for this section, see WV Code, §17D-2A-3.*

### **Section 3-26-2. Certificate of insurance.**

- (a) All insurance carriers transacting insurance in this State shall supply a certificate to the insured or to any person subject to the registration provisions of 3-7-1 of Code of West Virginia, certifying that there is in effect a motor vehicle liability policy upon such motor vehicle in accordance with the provisions of article three, chapter seventeen-a of this code. The certificate shall give its effective date and the effective date of the policy and, unless the policy is issued to a person who is not the owner of a motor vehicle, must designate by explicit description, in such detail as the Commissioner of the Division of Motor Vehicles shall by rule require, all motor vehicles covered and all replacement vehicles of similar classification: Provided, That on and after the first day of July, one thousand nine hundred eighty-four, insurance companies shall supply a certificate of insurance in duplicate for each policy term and for each vehicle included in a policy, except for those listed in a fleet policy. Each such certificate of insurance shall list the name of the policyholder and the name of the vehicle owner if different from the policyholder. The certificate must specify for each vehicle listed therein, that there is a minimum liability insurance coverage not less than the requirements of 17D-4-2 of Code of West Virginia.
- (b) The certificate provided pursuant to the provisions of this section or other proof of insurance shall be carried by the insured in the appropriate vehicle for use as proof of security, and must be presented at the time of vehicle inspection as required by article 3-7-1 of Code of West Virginia. Any person violating the provisions of this subsection is guilty of a misdemeanor and, upon conviction thereof, shall be fined not less than two hundred dollars nor more than five thousand dollars; and upon a second or subsequent conviction, shall be fined not less than two hundred dollars nor more than five thousand dollars, or confined in the county or regional jail for not less than fifteen days nor more than thirty days, or both: Provided, That an insured shall not be guilty of a violation of this subsection (b) if he or she furnishes proof that such insurance was in effect within seven days of being cited for not carrying such certificate or other proof in such vehicle.

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- (c) As used in this section, proof of insurance means a certificate of insurance, an insurance policy, a mechanically reproduced copy of an insurance policy, a certificate of self-insurance, or a copy of the current registration issued to a motor carrier by the public service commission: (1) Through the single state registration system established pursuant to section fourteen, article six-a, chapter twenty-four-a of the West Virginia State Code; or (2) pursuant to the provisions of section four [§ 24A-6-4], article six, chapter twenty-four-a of the Code of West Virginia.

*For State Law basis of this section, see WV Code, §17D-2A-4.*

### **Article 27. Bail, Failure to Appear, Penalties**

#### **Section 3-27-1. Right to bail; exceptions; review.**

A person arrested for an offense under the provisions of this Chapter shall be admitted to bail by the municipal judge.

*For State Law basis of this section, see WV Code, §62-1C-1.*

#### **Section 3-27-2. Release upon own recognizance authorized.**

Any other provision of this article to the contrary notwithstanding, when from all the circumstances, the municipal judge is of the opinion that the defendant or person arrested will appear as may be required of him, either before or after conviction, the defendant or person arrested may be released upon his own recognizance.

*For State Law basis of this section, see WV Code, §62-1C-1a.*

#### **Section 3-27-3. Bail defined; form; receipts.**

Bail is security for the appearance of a defendant to answer to a specific criminal charge before the municipal judge at a specific time or at any time to which the case may be continued. It may take any of the following forms:

- (a) The deposit by the defendant or by some other person for him or cash.
- (b) The written undertaking by one or more persons to forfeit a sum of money equal to the amount of the bail if the defendant is in default for appearance, which shall be known as a recognizance.
- (c) Such other form as the judge of the court that will have jurisdiction to try the offense may determine.

All bail shall be received by the clerk of the municipal court and, except in case of recognizance, receipts shall be given therefore by him or her.

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*For State Law basis of this section, see WV Code, §62-1C-2.*

### **Section 3-27-4. Fixing of amount; bail may cover two or more charges.**

The amount of bail shall be fixed by the municipal judge with consideration given to the seriousness of the offense charged, the previous criminal record of the defendant, his financial ability, and the probability of his appearance. When two or more charges are filed or are pending against the same person at or about the same time, the bail given may be made to include all offenses charged against the defendant.

*For State Law basis of this section, see WV Code, §62-1C-3.*

### **Section 3-27-5. Recognizance; signing; requirements for signers or surety company; release upon own recognizance; indigent persons.**

The recognizance shall be signed by the defendant. It shall also be signed by one or more adult persons owning real property in the State. The municipal judge may require that justification of surety be furnished. The assessed value of the real property as shown on the county land books over and above all liens and encumbrances shall not be less than one-half the amount of the bail. Or, the recognizance may be signed by the defendant and a surety company authorized to do business in this State. The municipal judge may release the defendant on his own recognizance. An indigent person who the court is satisfied will appear as required shall not be denied bail because of his inability to furnish recognizance.

*For State Law basis of this section, see WV Code, §62-1C-4.*

### **Section 3-27-6. Recognizance and deposits subject to order of municipal judge.**

The recognizance shall be returnable to and all deposits shall be held by the municipal court before whom the defendant is to appear or does appear, and upon the transfer of the case to any other court the recognizance shall be returnable to and transmitted together with any deposits to such other court.

*For State Law basis of this section, see WV Code, §62-1C-5.*

### **Section 3-27-7. Continuing bail.**

The bail as initially given may continue in effect pending arraignment, continuance, trial and appeal after conviction, as the court may direct.

*For State Law basis of this section, see WV Code, §62-1C-6.*

### **Section 3-27-8. Forfeiture of bail; basis therefore.**

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- (1) Whenever a person under bail serves as his or her own surety and he or she shall willfully and without just cause fails to appear as and when required or violates any other term or condition of bail, the municipal judge shall declare the bail forfeited.
- (2) Whenever a person or entity other than the person under bail serves as surety, forfeiture of bail shall be declared only when the person under bail willfully and without just cause fails to appear as and when required unless the surety, by the express terms of the bail instrument, has agreed to be responsible to ensure compliance with one or more other conditions of bail and there is a willful violation of such condition.

*For State Law basis of this section, see WV Code, §62-1C-7.*

### **Section 3-27-9. Same – Setting aside.**

The municipal judge may direct that a forfeiture be set aside, upon such conditions as may be imposed, if it appears that justice does not require the enforcement of the forfeiture.

*For State Law basis of this section, see WV Code, §62-1C-8.*

### **Section 3-27-10. Same – Enforcement.**

When a forfeiture has not been set aside, the municipal judge upon motion of the Municipality, shall enter a judgment of default and execution may issue thereon: Provided, That if the forfeiture is declared in a court of record, the order taking judgment shall be entered at the same court in which the forfeiture was declared: And Provided further, That if the deposit for bail be by a person other than the defendant, or if the bail be in the form of recognizance, such person making the deposit or the surety on the recognizance shall be given ten days' notice by certified mail at his last-known address to appear and show cause why a judgment of default should not be entered. Execution shall issue in the name of the Municipality and shall proceed in the manner provided by law in civil actions. If the bail be in the form of bonds or stocks, the judgment order may direct that all or part thereof be sold through a state or national bank or through a brokers exchange registered with the federal securities and exchange commission.

*For State Law basis of this section, see WV Code, §62-1C-9.*

### **Section 3-27-11. Same – Bail in excess of jurisdictional limit of municipal court.**

Where the forfeiture has been declared by a municipal judge in excess of the jurisdictional limit of municipal judge, such forfeiture shall be certified to a court of the county having sufficient jurisdiction, which court shall thereupon proceed as if the forfeiture were originally declared in such court.

*For State Law basis of this section, see WV Code, §62-1C-10.*

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### **Section 3-27-12. Same – Remission.**

After entry of such judgment, the court or municipal judge may remit the penalty in whole or in part under the conditions applying to the setting aside of forfeiture in 3-27-9 of this article.

*For State Law basis of this section, see WV Code, §62-1C-11.*

### **Section 3-27-13. Same – Exoneration; return of deposit.**

When the condition of the bond has been satisfied or the forfeiture thereof has been set aside or remitted, the court or municipal judge shall exonerate the surety and release any bail and, if the bail be in a form other than a recognizance, the deposit shall be returned to the person who made the same. The surety may be exonerated by a deposit of cash in the amount of the bail or by a timely surrender of the defendant into custody.

*For State Law basis of this section, see WV Code, §62-1C-12.*

### **Section 3-27-14. Same – Defects in form of bail.**

No action or judgment for forfeiture of bail shall be defeated or arrested by the neglect or omission to record the declaration of forfeiture or by reason of any defect in the form of the bail, if it appear to have been taken by a municipal judge authorized to take it, and be substantially sufficient.

*For State Law basis of this section, see WV Code, §62-1C-13.*

### **Section 3-27-15. Bail for witness.**

The bail for a witness for or against the accused shall be conditioned upon his appearance at such time and place as the municipal judge shall direct.

*For State Law basis of this section, see WV Code, §62-1C-15.*

### **Section 3-27-16. Guaranteed arrest bond certificate.**

For a misdemeanor violation of any motor vehicle law of the State or this Municipality, except reckless driving or driving while intoxicated, the guaranteed arrest bond certificate of any surety company licensed to do business by the Insurance Commissioner of the State of WV, when presented by the person whose signature appears thereon shall be accepted as bail in lieu of cash or recognizance in an amount not to exceed five hundred dollars. A “guaranteed arrest bond certificate” shall mean any printed card or certificate issued by an automobile club or association to its members in good standing bearing the signature of the member and containing a printed statement that such club or association and a surety company will guarantee the payment of any fine or forfeiture imposed on the

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member in an amount not to exceed five hundred dollars if the member fails to appear in court as required.

*For State Law basis of this section, see WV Code, §62-1C-16.*

### **Section 3-27-17. Offenses against municipalities.**

Bail for a person accused of an offense against a municipality shall be governed by the provisions of this article applicable to a municipal court, except that the bail may be deposited with the mayor or other chief executive officer of the municipality, and proceedings for forfeiture shall be prosecuted in the name and for the benefit of the municipality.

*For State Law basis of this section, see WV Code, §62-1C-17.*

### **Section 3-27-18. Failure to appear; penalties.**

- (a) As provided in 3-25-1 of this chapter, any person, who, having been released upon his personal recognizance pursuant to section 3-27-2 of this article or having been otherwise admitted to bail and released in accordance with this article, and who shall willfully and without just cause fail to appear as and when it may be required of him or her, shall be guilty of the offense as hereinafter prescribed, and, upon conviction thereof, shall be punished in the manner hereinafter provided.
- (b) If any such person was admitted to bail or released after being arrested for, charged or convicted of a misdemeanor and shall thereafter be convicted for a violation of the provisions of subsection (a) of this section, such person shall be guilty of a misdemeanor and shall be fined not more than five hundred dollars or confined in the county or regional jail for not more than thirty days, or both such fine and confinement.
- (c) If any such person was admitted to bail or released pending appearance as a material witness and shall thereafter fail to appear when and where it shall have been required of him or her, such person shall be guilty of a misdemeanor, and upon conviction thereof, shall be fined not more than five hundred dollars or confined in the county or regional jail not more than thirty days, or both such fine and confinement.
- (d) Any penalty authorized by this section shall be in addition to any forfeiture authorized or mandated by this article or by any other provision of law.

*For State Law basis of this section, see WV Code, §62-1C-17b.*

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### **Section 3-27-19. Bail in cases of crime between family or household members.**

- (a) When the offense charged is a crime against a family or household member, it may be a condition of bond that the defendant shall not have any contact whatsoever, direct or indirect, verbal or physical, with the victim or complainant.
- (b) In determining conditions of release, the issuing authority shall consider whether the defendant poses a threat or danger to the victim or other family or household member. If the issuing authority makes such a determination, it shall require as a condition of bail that the defendant refrain from entering the residence or household of the victim, the victim's school, and the victim's place of employment or otherwise contacting the victim and/or minor child or household member in any manner whatsoever, and shall refrain from having any further contact with the victim. A violation of this condition may be punishable by the forfeiture of bail and the issuance of a bench warrant for the defendant's arrest or remanding the defendant to custody or a modification of the terms of bail.
- (c) The clerk of the municipal court issuing an order pursuant to this section shall issue certified copies of the conditions of bail to the victim upon request without cost.
- (d) Where a law-enforcement officer observes any violation of bail condition, including the presence of the defendant or at the home of the victim, the officer shall immediately arrest the defendant, and detain the defendant pending a hearing for revocation of bail.

*For State Law basis of this section, see WV Code, §62-1C-17c.*

### **Section 3-27-20. Repeal of inconsistent laws.**

All provisions of this Code which are inconsistent with the provisions of this article are hereby repealed to the extent and only to the extent of such inconsistency.

*For State Law basis of this section, see WV Code, §62-1C-18.*

### **Section 3-27-21. Severability.**

If any provision of this article or the application thereof to any person or circumstance is held invalid, such invalidity shall not affect other provisions or applications of the article which can be given effect without the invalid provision or its application, and to this end, the provisions of this article are declared to be severable.

*For State Law basis of this section, see WV Code, §62-1C-19.*

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### **Article 28. All-Terrain Vehicles. (Added 8/7/2006.)**

#### **Section 3-28-1. Prohibiting riding, operating or using unlicensed all-terrain vehicles or other unlicensed motor vehicles upon municipal property; providing penalties for violation and setting forth certain exception**

- (a) Riding, operating or using unlicensed all-terrain vehicles or other unlicensed motor vehicles for transportation or recreational purposes, within or upon the streets, alleys, sidewalks, parking lots, and other realty estate which is owned, leased, or controlled property of the municipality of Ronceverte, or any of its boards, authorities, or commissions is prohibited.
- (b) Any person violating the provisions of subsection (A) of this section is guilty of a misdemeanor offense, and upon conviction thereof for a first offense shall be fined not less than Twenty-Five Dollars (\$25.00) nor more than One Hundred Dollars (\$100.00) and any person convicted of a second or subsequent offense shall be fined not less than Fifty Dollars (\$50.00) nor more than Two Hundred Fifty Dollars (\$250,00).
- (c) For the purposes of this Code Section, the term "all-terrain vehicle" means the term all-terrain vehicle as defined in Section 17A-1-1(ii) of the West Virginia Code, and the term "motor vehicle" the term motor vehicle as defined in Section 17A-1-1(b) of the West Virginia Code.
- (d) Notwithstanding any other provision of this section, it is not an offense for any person to lawfully ride or operate any unlicensed all-terrain vehicle unlicensed motor vehicle upon any real estate under the ownership or control of the county, state or federal government which may be located within the corporate limits of the municipality of Ronceverte.
- (e) Notwithstanding any other provision of this section, it is not an offense for any person licensed to operate a motor vehicle within the State of West Virginia, to ride, operate, or otherwise use an unlicensed all-terrain vehicle or other unlicensed motor vehicle upon a designated parade route, when the person is a duly registered and recognized participant in any permitted parade, provided that the unlicensed all-terrain vehicle or unlicensed motor vehicle is participating in the parade.
- (f) Employees or agents of the federal government, state government or any of their subdivisions are exempt from the provisions of this section when the use of any unlicensed all-terrain vehicle or unlicensed motor vehicle is for official governmental purposes..
- (g) Nothing contained within this section is intended, nor may it be construed, so as to create or form the basis for any civil or administrative liability on

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the part of the municipality of Ronceverte or any of its officers, officials, employees or agents for any injury or damage resulting to any person as a consequence of any action or inaction on the part of the municipality related, in any manner, to the enforcement or non-enforcement of this section by the municipal police officers, officials, employees, or agents.

- (h) In addition, the parent, other legal guardian or other responsible adult of a minor may not authorize or knowingly permit any minor to violate any provision within this section. Any person who violates the provisions of this subsection is guilty of a misdemeanor and upon conviction thereof for a first offense shall be fined not less than Twenty-Five Dollars (\$25.00) nor more than One Hundred Dollars (\$100.00) and any person convicted of a second or subsequent offense shall be fined not less than Fifty Dollars (\$50.00) nor more than Two Hundred Fifty Dollars (\$250.00).

### **Article 99. Chapter Penalties.**

#### **Section 3-99-1. Penalties when not otherwise provided.**

Every person convicted of a violation of any of the provisions of this chapter for which another penalty is not provided shall, for a first conviction thereof, be punished by a fine of not more than one hundred dollars or by imprisonment for not more than ten days; for a second such conviction within one year thereafter such person shall be punished by a fine of not more than two hundred dollars or by imprisonment for not more than twenty days or both such fine and imprisonment; upon a third or subsequent conviction such person shall be punished by a fine of not more than five hundred dollars or by imprisonment for not more than thirty days, or both such fine and imprisonment.

*For State Law basis of this section, see WV Code, §17C-18-1.*

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