

**AN ORDINANCE OF THE YEAR 2021 BY THE CITY OF WESTON, WEST VIRGINIA,  
TO AMEND ITS TRAFFIC CODE BY REPEALING ANY AND ALL PRIOR CITY  
TRAFFIC CODES AND ADOPTING THIS TRAFFIC CODE, CHAPTER 28 AS IT IS  
COMMONLY KNOWN, PURSUANT TO POWERS GRANTED TO THE CITY OF  
WESTON BY WEST VIRGINIA CODE §8-12-5 AND THE CHARTER OF THE CITY OF  
WESTON, WEST VIRGINIA**

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WHEREAS, the City of Weston, West Virginia, pursuant to the provisions of West Virginia Code §8-12-5, does regulate public streets, avenues, roads, alleys, ways, sidewalks, crosswalks, and public spaces belonging to the City of Weston; and

WHEREAS, the City of Weston has historically regulated the use of the same, also pursuant to the provisions of West Virginia Code §8-12-5, to impose traditional regulations upon the signage and use of said public streets; and

WHEREAS, the City of Weston, acting by and through its City Council as provided for by the laws of the State of West Virginia and the Charter of said City of Weston, does now desire to repeal its prior Traffic Code and replace said prior Traffic Code with this Traffic Code.

NOW, BE IT ENACTED BY THE COMMON COUNCIL OF THE CITY OF WESTON AS FOLLOWS:

**2021 CHAPTER 28 TRAFFIC CODE**

THAT, as of the effective date of this Ordinance, the Traffic Code of the City of Weston, as codified in the following “Chapter 28,” is intended to repeal and replace any and all prior traffic codes that have been in prior use by the City of Weston. Chapter 28 shall now read as follows:

## CHAPTER 28

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### **ARTICLE 1 DEFINITIONS**

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### **28.1.1 MEANING OF WORDS AND PHRASES.**

The following words and phrases when used in this Traffic Code shall, for the purpose of this Traffic Code, have the meanings respectively ascribed to them in this article. Words in this Traffic Code that have not been defined shall be given definitions consistent with definitions found in (WV Code 17C-1)

### **28.1.2 AUTHORIZED EMERGENCY VEHICLE.**

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

### **28.1.3 BICYCLE.**

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

### **28.1.4 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. (WV Code 17C-1-13)

### **28.1.5 BUSINESS DISTRICT.**

“Business district” means the territory contiguous to and including a street or highway when within any 600 feet along such highway there are buildings in use for business or industrial purposes, including but not limited to hotels, banks or office buildings, railroad stations, and public buildings which occupy at least 300 feet of frontage on one side or 300 feet collectively on both sides of the street or highway. (WV Code 17C-1-4)

### **28.1.6 CONTROLLED-ACCESS HIGHWAY.**

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

### **28.1.7 CROSSWALK.**

“Crosswalk” includes:

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

### **28.1.8 DRIVER.**

“Driver” means every person who drives or is in actual physical control of a vehicle. (WV Code 17C-1-31)

### **28.1.9 ELECTRIC PERSONAL ASSISTIVE MOBILITY DEVICE.**

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

### **28.1.10 EXPLOSIVES.**

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

**28.1.11 FLAMMABLE LIQUID.**

“Flammable liquid” means any liquid which has a flash point of seventy degrees Fahrenheit, or less, as determined by a Tagliabue or equivalent closed cup test device. (WV Code 17C-1-25)

**28.1.12 GROSS WEIGHT.**

“Gross weight” means the weight of a vehicle without load plus the weight of any load thereon. (WV Code 17C-1-26)

**28.1.13 INTERSECTION.**

“Intersection” includes:

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

**28.1.14 LANED ROADWAY.**

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

**28.1.15 MOPED.**

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

#### **28.1.16 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. (WV Code 17C-1-4)

#### **28.1.17 MOTOR-DRIVEN CYCLE.**

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

#### **28.1.18 MOTOR VEHICLE.**

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

#### **28.1.19 OWNER.**

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

#### **28.1.20 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. (WV Code 17C-1-54)

#### **28.1.21 PARKING AREA.**

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

**28.1.22 PASSENGER VAN.**

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

**28.1.23 PEDESTRIAN.**

“Pedestrian” means any person afoot or any person using a wheelchair. (WV Code 17C-1-30)

**28.1.24 PERSON.**

“Person” means every natural person, firm, copartnership, association or corporation. (WV Code 17C-1-29)

**28.1.25 POLE TRAILER.**

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

**28.1.26 POLICE OFFICER.**

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

**28.1.27 PRIVATE ROAD OR DRIVEWAY; PRIVATE PROPERTY.**

1. “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.
2. “Private property” means real estate in private ownership without regard to the manner in which it is used. (WV Code 17C-1-36)



### **28.1.28 RAILROAD.**

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

### **28.1.29 RAILROAD SIGN OR SIGNAL.**

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

### **28.1.30 RAILROAD TRAIN.**

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

### **28.1.31 RESIDENCE DISTRICT.**

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

### **28.1.32 RESIDENTIAL STREET.**

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

### **28.1.33 RIGHT OF WAY.**

“Right of way” means the privilege of the immediate use of the street or highway. (WV Code 17C-1-51)

### **28.1.34 ROADWAY.**

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

**28.1.35 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. (WV Code 17C-1-44)

**28.1.36 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. (WV Code 17C-1-7)

**28.1.37 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. (WV Code 17C-1-55)

**28.1.38 SEMITRAILER.**

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

**28.1.39 SIDEWALK.**

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

**28.1.40 STOP.**

“Stop” when required, means complete cessation from movement. (WV Code 17C-1-52)

**28.1.41 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. (WV Code 17C-1-53)

#### **28.1.42 STREET OR HIGHWAY; ALLEY.**

1. "Street" or "highway" means the entire width between the boundary lines of every way publicly maintained when any part thereof is open to the use of the public for purposes of vehicular travel. (WV Code 17C-1-35)
2. "Alley" means a street or highway intended to provide access to the rear or side of lots or buildings in urban districts and not intended for the purpose of through vehicular traffic.

#### **28.1.43 THROUGH STREET OR THROUGH HIGHWAY.**

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

#### **28.1.44 TRAFFIC.**

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

#### **28.1.45 TRAFFIC CONTROL DEVICES.**

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

#### **28.1.46 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. (WV Code 17C-148)

#### **28.1.47 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. (WV Code 17C-1-15)

#### **28.1.48 TRUCK.**

"Truck" means every motor vehicle designed, used or maintained primarily

for the transportation of property. (WV Code 17C-1-12)

**28.1.49 VEHICLE.**

“Vehicle” means every device in, upon or by which any person or property is or may be transported or drawn upon a street or highway, except devices moved by human power or used exclusively upon stationary rails or tracks or wheelchairs. (WV Code 17C-1-2)

**28.1.50 WHEELCHAIR.**

“Wheelchair” means a motorized or nonmotorized wheeled device designed for, and used by, a person with disabilities that is incapable of a speed in excess of eight miles per hour\_ (WV Code 17C-1-65)

**28.1.51 MUNICIPAL COURT**

“Municipal Court,” when used in this Chapter refers to the Court System utilized by the City of Weston, whether it be called other names such as Police Court, City Court, or the like. Municipal Court is not Magistrate Court or West Virginia State Circuit Court.

**Article 2**

**Obedience to and Effect of Traffic Laws**

- 28.2.1 Authority of Police and Fire Department Officials.
- 28.2.2 Application to Vehicles Upon Streets and Highways; Exceptions.
- 28.2.3 Obedience to Police Officers; Fleeing.
- 28.2.4 Application to Government Vehicles; Exception.
- 28.2.5 Authorized Emergency Vehicles.
- 28.2.6 Application to Persons Riding Animals or Driving Animal Drawn Vehicles.
- 28.2.99 Penalty.

**Article 2**

**OBEDIENCE TO AND EFFECT OF TRAFFIC LAWS**

**28.2.1 AUTHORITY OF POLICE AND FIRE DEPARTMENT OFFICIALS.**

- (a) It shall be the duty of the officers of the Police Department to enforce all street traffic laws of this Municipality and all of the State vehicle laws applicable to street traffic in this Municipality.
- (b) Officers of the Police Department are hereby authorized to direct all traffic by voice, hand or signal in conformance with traffic laws; provided that in the event

of a fire or other emergency or to expedite traffic or to safeguard pedestrians, officers of the Police Department may direct traffic as conditions may require notwithstanding the provisions of the traffic laws.

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

#### **28.2.2 APPLICATION TO VEHICLES UPON STREETS AND HIGHWAYS; EXCEPTIONS.**

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

- (a) Where a different place is specifically referred to in a given section.
- (b) The provisions of this Chapter **?except Article 112?** shall apply upon streets and highways as defined in **?Section 114.06.?** WV Code 17C-1-35.

#### **28.2.20 OBEDIENCE TO POLICE OFFICERS; FLEEING**

- (a) No person shall willfully fail or refuse to comply with a lawful order or direction of any police officer or designated special officer invested by law with authority to direct, control or regulate traffic. (WV Code 17C-2-3(c))
- (b) No person shall operate a vehicle so as to willfully elude or flee a police officer or designated special officer after receiving a visible or audible signal from such an officer to bring his vehicle to a stop.

#### **28.2.4 APPLICATION TO GOVERNMENT VEHICLES; EXCEPTION.**

- a) The provisions of this Chapter applicable to the drivers of vehicles upon the streets or highways shall apply to the drivers of all vehicles that are being operated on the streets and highways of the City of Weston.
- (a) owned or operated by the United States; the State of West Virginia; **(other states of the United States or other territories of the United States; other countries or political subdivisions of other countries)** 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 such specific exceptions as are set forth in this Traffic Code with reference to authorized emergency vehicles.
- (b) Unless specifically made applicable, the provisions of this Traffic Code shall not apply to persons, teams, motor vehicles and other equipment while actually engaged in work upon the surface of a street or highway but shall apply to such persons and vehicles when traveling to or from such work. (WV Code 17C-2-4)

**28.2.5 AUTHORIZED EMERGENCY VEHICLES.**

- (a) The driver of an authorized emergency vehicle, when responding to an emergency call or when in the pursuit of an actual or suspected violator of the law or when responding to but not upon returning from a fire alarm, may exercise the privileges set forth in this section, but subject to the conditions herein stated.
- (b) The driver of an authorized emergency vehicle may:
  - (1) Park or stand, irrespective of the provisions of this Traffic Code;
  - (2) Proceed past a red or stop signal or stop sign, but only after slowing down as may be necessary for safe operation;
  - (3) Exceed the speed limits so long as he does not endanger life or property;
  - (4) Disregard regulations governing direction of movement or turning in specified directions.
- (c) The exemptions herein granted to an authorized emergency vehicle shall apply only when the driver of any such vehicle while in motion sounds audible signal by bell, siren or exhaust whistle as may be reasonably necessary, and when the vehicle is equipped with at least one lighted flashing lamp as authorized by Section 28.11.18 which is visible under normal atmospheric conditions from a distance of 500 feet to the front of such vehicle, except that an authorized emergency vehicle operated as a police vehicle need not be equipped with or display a warning light visible from in front of the vehicle.
- (d) The foregoing provisions shall not relieve the driver of an authorized emergency vehicle from the duty to drive with due regard for the safety of all persons, nor shall such provisions protect the driver from the consequences of his reckless disregard for the safety of others. (WV Code 17C-2-5)

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

Every person riding an animal or driving any animal-drawn vehicle upon a roadway shall be granted all of the rights and shall be subject to all of the duties applicable to the driver of a vehicle by this Traffic Code, except those provisions of this

Traffic Code which by their very nature can have no application. (WV Code 17C-2-6)

### **28.2.7 REQUIRED OBEDIENCE TO TRAFFIC LAWS**

It shall be unlawful and, unless otherwise declared in this Chapter with respect to particular offenses, it is a misdemeanor for any person to do any act forbidden or fail to perform any act required in this Chapter.

### **28.2.7 COSTS OF COURT**

All courts costs shall be paid by any driver convicted of a penalty under this Chapter.

### **28.2.99 PENALTY.**

General Article Penalty. Whoever violates any provision of this Chapter for which no other penalty is provided shall be fined not more than one hundred dollars (\$100.00); upon a second conviction within one year thereafter shall be fined not more than two hundred dollars (\$200.00); and upon a third or subsequent conviction, shall be fined not more than five hundred dollars (\$500.00).

## **Article 3**

### **Traffic Signs, Signals and Markings**

- 28.3.1 Obedience to Traffic Control Devices
- 28.3.2 Obedience to Traffic Control Instructions at Street Construction
- 28.3.3 Traffic Control Signal Terms and Lights
- 28.3.4 Pedestrian Control Signals
- 28.3.5 Flashing Signals
- 28.3.6 Unauthorized Signs and Signals, Biding From View, Advertising
- 28.3.7 Alteration, Injury, Removal of Traffic Control Devices
- 28.3.8 Traffic Violations in Construction Zones
- 28.3.99 Penalty

## **Article 3**

### **TRAFFIC SIGNS, SIGNALS AND MARKINGS**

#### **28.3.1 OBEDIENCE TO TRAFFIC CONTROL DEVICES.**

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

authorized emergency vehicle in this Traffic Code.

- (b) No provision of this Traffic Code for which signs are required shall be enforced against an alleged violator if at the time and place of the alleged violation an official sign is not in proper position and sufficiently legible to be seen by an ordinarily observant person. Whenever a particular section does not state that signs are required, such section shall be effective even though no signs are erected or in place.
- (c) Any person violating the provisions of this section is guilty of a misdemeanor and, upon conviction thereof, shall be fined not more than \$100; upon a second conviction within one year thereafter, shall be fined not more than \$200; and upon a third or subsequent conviction, shall be fined not more than \$500.

### **28.3.2 OBEDIENCE TO TRAFFIC CONTROL INSTRUCTIONS AT STREET CONSTRUCTION.**

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

### **28.3.3 TRAFFIC CONTROL SIGNAL TERMS AND LIGHTS.**

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

**(a) Green alone or “go”:**

1. Vehicular traffic facing the signal, except when prohibited under Section 28.10.2, may proceed straight through or turn right or left unless a sign at such place prohibits either such turn. But vehicular traffic, including vehicles turning right or left, shall yield the right of way to other vehicles and to pedestrians lawfully within the intersection or an adjacent crosswalk at the time such signal is exhibited.
2. Pedestrians facing the signal may proceed across the roadway within any marked or unmarked crosswalk.

**(b) Yellow alone or “caution” when showing following the green or “go” signal:**



1. Vehicular traffic facing the signal is thereby warned that the red or “stop” signal will be exhibited immediately thereafter and such vehicular traffic shall not enter or be crossing the intersection when the red or “stop” signal is exhibited.
2. Pedestrians facing such signal are thereby advised that there is insufficient time to cross the roadway, and any pedestrian then starting to cross shall yield the right of way to all vehicles.

(c) Red alone or “stop”:

1. Vehicular traffic facing the signal shall stop before entering the crosswalk on the near side of the intersection or, if none, then before entering the intersection and shall remain standing until green or “go” is shown alone except as provided in subsection (c)(2) and (3) hereof.
2. A vehicle which is stopped in obedience to a red or “stop” signal as close as practicable at the entrance to the crosswalk on the near side of the intersection or, if none, then at the entrance to the intersection, may cautiously make a right turn but such vehicle shall yield the right of way to pedestrians lawfully within a crosswalk and to other vehicular traffic proceeding as directed by the signal at such intersection, except that Council may by ordinance prohibit any such right turn against a red or “stop” signal at any intersection which ordinance shall be effective when a sign is erected at such intersection giving notice thereof.
3. A vehicle which is stopped in obedience to a red or “stop” signal as close as practicable at the entrance to the crosswalk on the near side of the intersection or, if none, then at the entrance to the intersection on a one-way street which intersects another one-way street on which traffic moves to the left, may cautiously make a left turn into the one-way street but such vehicle shall yield the right of way to pedestrians lawfully within a crosswalk and to other vehicular traffic proceeding as directed by the signal at such intersection, except that Council may by ordinance prohibit any such left turn against a red or “stop” signal at any intersection, which ordinance shall be effective when a sign is erected at such intersection giving notice thereof.
4. No pedestrian facing such signal shall enter the roadway unless he can do so safely and without interfering with any vehicular traffic.

(d) Red with green arrow:

1. Vehicular traffic facing such signal may cautiously enter the intersection only to make the movement indicated by such arrow but shall yield the right of way to pedestrians lawfully within a crosswalk and to other traffic lawfully using the

intersection.

2. No pedestrian facing such signal shall enter the roadway unless he can do so safely and without interfering with any vehicular traffic.
- (e) In the event an official traffic control signal is erected and maintained at a place other than an intersection, the provisions of this section shall be applicable except as to those provisions which by their nature can have no application. Any stop required shall be made at a sign or marking on the pavement indicating where the stop shall be made, but in the absence of any such sign or marking the stop shall be made at the signal. (WV Code 17C-3-5)

#### **28.3.4 PEDESTRIAN CONTROL SIGNALS.**

Whenever special pedestrian control signals exhibiting the words “walk” or “wait” or other similar language, signals, or sounds are in place, such signals shall indicate as follows:

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

#### **28.3.5 FLASHING TRAFFIC SIGNALS.**

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

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

#### **28.3.6 UNAUTHORIZED SIGNS AND SIGNALS, BIDDING FROM VIEW, ADVERTISING.**

- (a) No local authority or person shall place, maintain or display upon or in view of any street or highway any unauthorized traffic control device or traffic control signal, or any unauthorized sign, signal, marking or device which purports to be or is an imitation of or resembles an official traffic control device or railroad sign or signal, or which attempts to direct the movement of traffic or which hides from view or interferes with the effectiveness of any official traffic control device or any railroad sign or signal, and no person shall place or maintain nor shall any public authority permit upon any street or highway any traffic control device bearing thereon any commercial advertising. This shall not be deemed to prohibit the erection upon private property adjacent to a street or highway of signs giving useful directional information and of a type that cannot be mistaken for official signs.
- (b) Every such prohibited device, signal, sign or marking is hereby declared to be a public nuisance and the Commissioner of Highways or other authority having jurisdiction over the street or highway is hereby empowered to remove the same or cause it to be removed without notice. (WV Code 17C-3-8)

**28.3.7 ALTERATION, INJURY, REMOVAL OF TRAFFIC CONTROL DEVICES.**

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

**28.3.8 TRAFFIC VIOLATIONS IN CONSTRUCTION ZONES.**

- (a) At each and every location where street or highway construction work is to be conducted a sign shall be posted at least 1,000 feet from the construction site, or as close to 1,000 feet from the construction site as is practicable given the location of the site when workers are present, notifying all motorists as to the speed limit and displaying the words "construction work".
- (b) No person shall violate any posted speed restriction or traffic restriction at such construction site referred to in subsection (a) of this section.
- (c) Nothing in this section shall be construed to preclude prosecution of any operator of a motor vehicle who commits a violation of any other provision of this Traffic Code for such violation. (WV Code 17C-3-4B)

**28.3.99 PENALTY**

- (a) General Penalty. Whoever violates Section 28.3.1, 28.3.2 or 28.3 shall be fined

not more than one hundred dollars (\$100.00); upon a second conviction within one year thereafter shall be fined not more than two hundred dollars (\$200.00); and upon a third or subsequent conviction, shall be fined not more than five hundred dollars (\$500.00).

**(b) Construction Zones.**

1. Any person who exceeds any posted speed restriction or traffic restriction at a construction site referred to in Section 28.3.8 by less than fifteen miles per hour shall be fined not more than two hundred dollars (\$200.00).
2. Any person who exceeds any posted speed restriction or traffic restriction at a construction site referred to in Section 28.3.8 by fifteen miles per hour or more shall be fined not more than three hundred dollars (\$300.00).

**(c)** If no penalty is specified in any subsection of Article 3, then the penalties found in Article 2, Section 28.2.99 shall apply.

**Article 4  
Crashes**

- 28.4.1 Immediate Reports of Crashes
- 28.4.2 When Driver Unable to Report
- 28.4.3 Garages to Report Bullet Damage
- 28.4.99 Penalty

**28.4.1 IMMEDIATE REPORTS OF ACCIDENTS.**

The driver of a vehicle involved in an accident resulting in bodily injury to, or the death of, any person, or total property damage to an apparent extent of one-thousand dollars or more shall immediately, by the quickest means of communication, whether oral or written, give notice of such accident to the Weston Police Department, or otherwise to the County Sheriff or nearest office of the West Virginia State Police.

Any person who violates West Virginia State Code §17C-4-1 shall be subject to penalties consistent with those found in West Virginia State Code §17C-4-1.

For the purposes of Article Four of this Chapter the definitions found in West Virginia Code §17C-4-1(e) shall be applicable unless the term(s) are otherwise defined in this Chapter.

**28.4.2 WHEN DRIVER UNABLE TO REPORT.**

Whenever the driver of a vehicle is physically incapable of making an immediate report of an accident as required in Section 28.4.1 and there was another occupant in the vehicle at the time of the accident capable of making a report, such

occupant shall make or cause to be made such report not made by the driver.

### **28.4.3 GARAGES TO REPORT BULLET DAMAGE.**

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

### **28.4.99 PENALTY.**

If no penalty is specified in any subsection of Article 4, then the penalties found in Article 2, Section 28.2.99 are applicable.

## **Article 5 SERIOUS TRAFFIC OFFENSES**

- 28.5.1 Driving under the Influence
- 28.5.2 Reckless Driving
- 28.5.3 Hazardous Driving
- 28.5.99 Penalty

### **28.5.1 DRIVING UNDER THE INFLUENCE**

The City of Weston shall enforce Driving Under the Influence situations in a manner consistent with the applicable state laws of the State of West Virginia.

### **28.5.2 RECKLESS DRIVING.**

- (a) No person shall drive any vehicle upon any street or highway, or upon any residential street, or in any parking area, or upon the ways of any institution of higher education, whether public or private or upon the property of the Board of Education, or upon any property within the Municipal park and public recreation system, in willful or wanton disregard for the safety of persons or property.
- (b) The provisions of subsection (a) hereof shall not apply to those areas which have been temporarily closed for racing sport events or which may be set aside by the Municipality within the park and recreation system for exclusive use by motorcycles or other recreational vehicles. (WV Code 17C-5-3(b))
- (c) Every person convicted of reckless driving may be punished by a fine of not less than \$25 nor more than \$500, and on a second or subsequent

conviction may be punished by a fine of not less than \$50 nor more than \$1,000. Every person convicted of reckless driving may be subject to confinement or jail penalties consistent with said penalties found in West Virginia Code §17-5-3.

### **28.5.3 HAZARDOUS DRIVING.**

- (a) No person shall operate a motor vehicle or motorcycle without exercising reasonable and ordinary control over such vehicle.
- (b) No person shall operate a motor vehicle or motorcycle in a weaving or zigzag course unless such irregular course is necessary for safe operation or in compliance with law.
- (c) No person shall operate a motor vehicle or motorcycle without giving his full time and attention to the operation of such vehicle.

### **28.5.4 USE OF CELL PHONES PROHIBITED WHILE DRIVING**

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

- (1) Texting; or

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

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

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

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

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

- (A) Voice radios, mobile radios, land mobile radios, commercial mobile

radios or two way radios with the capability to transmit and receive voice transmissions utilizing a push-to-talk or press-to-transmit function; or

(B) Other voice radios used by a law-enforcement officer, an emergency services provider, an employee or agent of public safety organizations, first responders, Amateur Radio Operators (HAM) licensed by the Federal Communications Commission and school bus operators.

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

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

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

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

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

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

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

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

(A) Viewing or transmitting images or data;

(B) Playing games;

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

(D) Engaging in a call.

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

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

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

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

(d) This section does not supersede the provisions of section three-a, article two, chapter seventeen-b of this code or any more restrictive provisions for drivers of commercial motor vehicles prescribed by the provisions of chapter seventeen-e of this code or federal law or rule.

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

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

(g) Driving or operating a motor vehicle on a public street or highway while texting shall



be enforced as a primary offense. Driving or operating a motor vehicle on a public street or highway while using a cell phone or other electronic communication device without hands-free equipment shall be enforced as a secondary offense until July 1, 2013, when it shall be enforced as a primary offense for purposes of citation.

- (h) Within ninety days of the effective date of this section, the Department of Transportation shall cause to be erected signs upon any highway entering the state of West Virginia on which a welcome to West Virginia sign is posted, and any other highway where the Division of Highways deems appropriate, posted at a distance of not more than one mile from each border crossing, each sign to bear an inscription clearly communicating to motorists entering the state that texting, or the use of a wireless communication device without hands-free equipment, is illegal within this state.
- (i) Nothing contained in this section shall be construed to authorize seizure of a cell phone or electronic device by any law- enforcement agency.
- (j) No policy providing liability coverage for personal lines insurance shall contain a provision which may be used to deny coverage or exclude payment of any legal damages recoverable by law for injuries proximately caused by a violation of this section, as long as such amounts are within the coverage limits of the insured.

**28.5.99 PENALTY.**

- (a) Whoever violates Section 28.5.2 shall for a first offense be fined not less than twenty-five dollars (\$25.00) nor more than five hundred dollars (\$500.00), for a second or subsequent offense shall be fined not less than fifty dollars (\$50.00) or more than one thousand dollars (\$1,000).
- (b) If no penalty is specified in any subsection of Article 5, then the penalties found in Article 2, Section 28.2.99 are applicable.

**Article 6  
SPEEDING**

- 28.6.1 Maximum Speed Limits
- 28.6.2 Slow Speed
- 28.6.3 Special Speed Limitations
- 28.6.4 Racing on Streets and Highways Prohibited
- 28.6.99 Penalty

**28.6.1 MAXIMUM SPEED LIMITS.**

- (a) No person may drive a vehicle on a street or highway at a speed greater than is

reasonable and prudent under the existing conditions and the actual and potential hazards. In every event speed shall be so controlled as may be necessary to avoid colliding with any person, vehicle or other conveyance on or entering the streets and highways in compliance with legal requirements and the duty of all persons to use due care.

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

1. Fifteen miles per hour in a school zone during school recess or while children are going to or leaving school during opening or closing hours. A school zone is all school property including school grounds and any street or highway abutting such school grounds and extending one hundred twenty-five feet along such street or highway from the school grounds. Such speed restriction does not apply to vehicles traveling on a controlled-access highway which is separated from the school or school grounds by a fence or barrier approved by the Division of Highways;
2. Twenty-five miles per hour in any business or residence district unless otherwise posted;
3. Fifty-five miles per hour on open country highways; except as otherwise provided by this article.

The speeds set forth in this section may be altered as authorized in West Virginia Code Chapter 17C-6 or as said Code section(s) may be amended from time to time.

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

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

## **28.6.2 SLOW SPEED.**

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

### **28.6.3 SPECIAL SPEED LIMITATIONS.**

- (a) 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, unless otherwise posted;
  2. Twenty-five miles per hour in any residence district, unless otherwise posted;
  3. Forty miles per hour on open country highway, unless otherwise posted; Trucks licensed at 8,000 pounds gross vehicle weight or less shall be permitted the same speed as passenger cars, unless otherwise posted. (WV Code 17C-6-4)
- (b) No person shall drive any vehicle equipped with other than pneumatic tires at a speed greater than a maximum of ten miles per hour.

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

### **28.6.4 RACING ON STREETS AND HIGHWAYS PROHIBITED.**

- (a) No person shall engage in, or aid or abet by serving as lookout or timer or in any other capacity whatever, any speed race, as defined herein, on any public street or highway in this Municipality. For the purposes of this section, "speed race" means:
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. (WV Code 17C-6-8(a))

### **28.6.99 PENALTY.**

(a) General Article Penalty.

Whoever violates any provision of this Article for which no other penalty is provided shall be fined not more than one hundred dollars (\$100.00); upon a second conviction within one year thereafter shall be fined not more than two hundred dollars (\$200.00); and upon a third or subsequent conviction, shall be fined not more than five hundred dollars (\$500.00).

(b) Speeding With Children Present. Any person who violates the provisions of of this Article where the offender exceeds the speed limit by fifteen miles per hour or more in the presence of one or more children, then upon conviction, that person shall be fined not less than one hundred dollars (\$100) nor more than five hundred dollars (\$500) or confined in jail for not more than 6 months, or both fined and confined. If the school zone signage required by West Virginia Code §17C-6-1(a)(1) is not present in the school zone at the time of the violation, then any person who violates said provision is guilty of a misdemeanor and, upon conviction thereof, shall be fined not more than \$25.

(c) Street Racing Whoever violates Section 28.6.4 shall be fined not less than fifty dollars (\$50.00) nor more than one hundred dollars (\$100.00); for a second offense fined not less than fifty dollars (\$50.00) nor more than five hundred dollars (\$500.00), or by imprisonment for not less than six days nor more 60 days or both; and for a third and each subsequent offense fined not less than one hundred dollars (\$100.00) nor more than one thousand dollars (\$1,000), or by imprisonment for not less than 60 days nor more than four months, or both. For the purposes of this section, a forfeiture of bail or collateral deposited to secure such person's appearance in court, which forfeiture has not been vacated, shall be equivalent to a final conviction. If at the time of any violation of the provisions of Section 28.6.4 by any person as an operator of a motor vehicle, such person was not entitled to operate a motor vehicle in this State because his operator's or chauffeur's license, or privilege to drive in this State if such person be a nonresident, had earlier been suspended or removed, then in addition to the penalties provided for in this section, the provisions of Section 28.14.10 shall be applicable. (WV Code 17C-6-8)

## Article 7

### DRIVING ON RIGHT SIDE OF ROADWAY, OVERTAKING AND PASSING, ETC.

- 28.7.1 Driving Upon Right Side of Roadway; Exceptions
- 28.7.2 Passing to Right When Proceeding in Opposite Directions
- 28.7.3 Overtaking, Passing to Left; Driver's Duties
- 28.7.4 Overtaking and Passing Upon Right
- 28.7.5 Overtaking, Passing to Left of Center
- 28.7.6 Additional Restrictions on Driving Upon Left Side of Roadway.

28.7.7	Hazardous or No Passing Zones
28.7.8	One-Way Roadways and Rotary Traffic Islands
28.7.9	Driving in Marked Lanes or Continuous Lines of Traffic
28.7.10	Following Too Closely
28.7.11	Driving Upon Divided Roadways
28.7.12	Entering and Exiting Controlled-Access Highway
28.7.99	Penalty

### **28.7.1 DRIVING UPON RIGHT SIDE OF ROADWAY; EXCEPTIONS.**

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

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

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

(c) Any person violating the provisions of this section is guilty of a misdemeanor, and upon conviction thereof, shall be fined not more than \$100; upon a second conviction within one year thereafter, shall be fined not more than \$200; and upon a third or subsequent conviction, shall be fined not more than \$500.

### **28.7.2 PASSING TO RIGHT WHEN PROCEEDING IN OPPOSITE DIRECTIONS.**

(a) Drivers of vehicles proceeding in opposite directions shall pass each other to the right, and upon roadways having width for not more than one line of traffic in each direction each driver shall give to the other at least one-half of the main-traveled portion of the roadway as nearly as possible. (WV Code 17C-7-2)

(b) Any person violating the provisions of this section is guilty of a misdemeanor, and upon conviction thereof, shall be fined not more

than \$100; upon a second conviction within one year thereafter, shall be fined not more than \$200; and upon a third or subsequent conviction, shall be fined not more than \$500.

### **28.7.3 OVERTAKING, PASSING TO LEFT; DRIVER'S DUTIES.**

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

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

### **28.7.4 OVERTAKING AND PASSING UPON RIGHT.**

- (a) The driver of a vehicle may overtake and pass upon the right of another vehicle only under the following conditions:
  - 1. When the vehicle overtaken is making or about to make a left turn;
  - 2. Upon a street or highway with unobstructed pavement not occupied by parked vehicles of sufficient width for two or more lines of moving vehicles in each direction;
  - 3. Upon a one-way street, or upon any roadway on which traffic is restricted to one direction of movement, where the roadway is free from obstructions and of sufficient width for two or more lines of moving vehicles.
- (b) The driver of a vehicle may overtake and pass another vehicle upon the right only under conditions permitting such movement in safety. In no event shall such movement be made by driving off the pavement or main-traveled portion of the roadway.

### **28.7.5 OVERTAKING, PASSING TO LEFT OF CENTER.**

No vehicle shall be driven to the left side of the center of the roadway in overtaking and passing another vehicle proceeding in the same direction unless such left side is clearly visible and is free of oncoming traffic for a sufficient distance ahead to permit such overtaking and passing to be completely made without interfering with the

safe operation of any vehicle approaching from the opposite direction or any vehicle overtaken. In every event the overtaking vehicle must return to the right-hand side of the roadway before coming within 100 feet of any vehicle approaching from the opposite direction.

#### **28.7.6 ADDITIONAL RESTRICTIONS ON DRIVING UPON LEFT SIDE OF ROADWAY.**

- (a) No vehicle shall at any time be driven to the left side of the roadway under the following conditions:
  - 1. When approaching the crest of a grade or upon a curve in the street or highway where the driver's view is obstructed within such distance as to create a hazard in the event another vehicle might approach from the opposite direction;
  - 2. When approaching within 100 feet of or traversing any intersection or railroad grade crossing;
  - 3. When the view is obstructed upon approaching within 100 feet of any bridge, viaduct or tunnel.
- (b) The foregoing limitations shall not apply upon a one-way roadway.
- (c) Any person violating the provisions of this section is guilty of a misdemeanor, and upon conviction thereof, shall be fined not more than \$100; upon a second conviction within one year thereafter, shall be fined not more than \$200; and upon a third or subsequent conviction, shall be fined not more than \$500.

#### **28.7.7 HAZARDOUS OR NO PASSING ZONES.**

- (a) When signs or markings are in place and clearly visible to an ordinarily observant person indicating that overtaking and passing or driving to the left of the roadway would be especially hazardous, every driver of a vehicle shall obey the directions thereof.
- (b) Any person violating the provisions of this section is guilty of a misdemeanor, and upon conviction thereof, shall be fined not more than \$100; upon a second conviction within one year thereafter, shall be fined not more than \$200; and upon a third or subsequent conviction, shall be fined not more than \$500.

#### **28.7.8 ONE-WAY ROADWAYS AND ROTARY TRAFFIC ISLANDS.**

- (a) Upon a roadway designated and signposted for one-way traffic a vehicle shall be driven only in the direction designated.
- (b) A vehicle passing around a rotary traffic island shall be driven only to the right of

such island.

- (c) Any person violating the provisions of this section is guilty of a misdemeanor, and upon conviction thereof, shall be fined not more than \$100; upon a second conviction within one year thereafter, shall be fined not more than \$200; and upon a third or subsequent conviction, shall be fined not more than \$500.

#### **28.7.8 DRIVING IN MARKED LANES OR CONTINUOUS LINES OF TRAFFIC**

- (a) Whenever any roadway has been divided into two or more clearly marked lanes for traffic the following rules in addition to all others consistent herewith shall apply:
  - 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 such movement can be made with safety.
  - 2) Upon a roadway which is divided into three lanes a vehicle shall not be driven in the center lane which is clearly marked as a left turn lane except in preparation for a left turn or where such center lane is at the time allocated exclusively to traffic moving in the direction the vehicle is proceeding and is signposted to give notice of such allocation.
  - 3) Official signs may be erected directing slow-moving traffic to use a designated lane or designating those lanes to be used by traffic moving in a particular direction regardless of the center of the roadway and drivers of vehicles shall obey the directions of every such sign.
- (b) Any person violating the provisions of this section is guilty of a misdemeanor, and upon conviction thereof, shall be fined not more than \$100; upon a second conviction within one year thereafter, shall be fined not more than \$200; and upon a third or subsequent conviction, shall be fined not more than \$500.

#### **28.7.10 FOLLOWING TOO CLOSELY.**

- (a) The driver of a motor vehicle shall not follow another vehicle more closely than is reasonable and prudent having due regard for the speed of such vehicles and the traffic upon and the condition of the street or highway.
- (b) No operator of any motor truck, registered for a gross weight of more than 8,000 pounds, bus, special mobile equipment or any motor vehicle drawing another vehicle operating upon any roadway outside of a business or residence district, shall follow within 200 feet of another motor truck, bus, special mobile equipment or any motor vehicle drawing another vehicle; provided that this provision shall not be construed to:



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

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

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

#### **28.7.11 DRIVING UPON DIVIDED ROADWAYS.**

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

#### **28.7.12 ENTERING AND EXITING CONTROLLED-ACCESS HIGHWAY.**

- (a) No person shall drive a vehicle onto or from any controlled-access roadway except at such entrances and exits as are established by public authority.
- (b) Any person violating the provisions of this section is guilty of a misdemeanor, and upon conviction thereof, shall be fined not more than \$100; upon a second conviction within one year thereafter, shall be fined not more than \$200; and upon a third or subsequent conviction, shall be fined not more than \$500.

#### **28.7.99 PENALTY.**

Unless otherwise provided, whoever violates any provision of this Article shall be fined not more than one hundred dollars (\$100.00); upon a second conviction

within one year thereafter shall be fined not more than two hundred dollars (\$200.00); and upon a third or subsequent conviction, shall be fined not more than five hundred dollars (\$500.00).

## **Article 8**

### **Turning and Starting and Signals on Stopping and Turning**

- 28.8.1 Conformity with Provisions Required
- 28.8.2 Right Turns
- 28.8.3 Left Turns on Two-Way Roadways
- 28.8.4 Left Turns on Other than Two-Way Roadways
- 28.8.5 Specified Turns at Intersections
- 28.8.6 "U" Turns Restricted
- 28.8.7 Signals Before Changing Course; Turning or Stopping
- 28.8.8 Signals to be Given by Hand and Arm or Signal Device
- 28.8.9 Hand and Arm Signals
- 28.8.99 Penalty

#### **28.8.1 CONFORMITY WITH PROVISIONS REQUIRED.**

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

#### **28.8.2 RIGHT TURNS.**

- (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 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 \$100; upon a second conviction within one year thereafter, shall be fined not more than \$200; and upon a third or subsequent conviction, shall be fined not more than \$500.

#### **28.8.3 LEFT TURNS ON TWO-WAY ROADWAYS.**

- (a) At any intersection where traffic is permitted to move in both directions on each roadway entering the intersection, an approach for a left turn shall be made in that portion of the right half of the roadway nearest the centerline thereof and by passing to the right of such centerline where it enters the intersection and after

entering the intersection the left turn shall be made so as to leave the intersection to the right of the centerline of the roadway being entered. Whenever practicable the left turn shall be made in that portion of the intersection to the left of the center of the intersection.

- (b) Any person violating the provisions of this section is guilty of a misdemeanor, and upon conviction thereof, shall be fined not more than \$100; upon a second conviction within one year thereafter, shall be fined not more than \$200; and upon a third or subsequent conviction, shall be fined not more than \$500.

#### **28.8.4 LEFT TURNS ON OTHER THAN TWO-WAY ROADWAYS.**

- (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 any such intersection shall approach the intersection in the extreme left-hand lane lawfully available to traffic moving in the direction of travel of such vehicle and after entering the intersection the left turn shall be made so as to leave the intersection, as nearly as practicable, in the left-hand lane lawfully available to traffic moving in such direction upon the roadway being entered.

- (b) Any person violating the provisions of this section is guilty of a misdemeanor, and upon conviction thereof, shall be fined not more than \$100; upon a second conviction within one year thereafter, shall be fined not more than \$200; and upon a third or subsequent conviction, shall be fined not more than \$500.

#### **28.8.5 SPECIFIED TURNS AT INTERSECTIONS.**

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

#### **28.8.6 "U" TURNS RESTRICTED.**

- (a) No vehicle shall be turned so as to proceed in the opposite direction upon any curve, or upon the approach to, or near the crest of a grade, where such vehicle cannot be seen by the driver of any other vehicle approaching from either direction within 500 feet.
- (b) No vehicle shall be turned so as to proceed in the opposite direction within an intersection, or upon any street in a business district, or upon a freeway, expressway or controlled-access highway, or where authorized signs are erected to prohibit such movement, or at any other location unless such movement can be made with reasonable safety to other users of the street and without

interfering with the safe operation of any traffic that may be affected by such movement.

**28.8.7 SIGNALS BEFORE CHANGING COURSE; TURNING OR STOPPING.**

- (a) No person shall turn a vehicle at an intersection unless the vehicle is in proper position-upon the roadway as required in subsection 2 through subsection 5 of this Article or turn a vehicle to enter a private road or driveway or otherwise turn a vehicle from a direct course or move right or left upon a roadway unless and until such movement can be made with reasonable safety. No person shall so turn any vehicle without giving an appropriate signal in the manner hereinafter provided in the event any other traffic may be affected by such movement.
- (b) A signal of intention to turn right or left when required shall be given continuously during not less than the last 100 feet traveled by the vehicle before turning.
- (c) No person shall stop or suddenly decrease the speed of a vehicle without first giving an appropriate signal in the manner provided in this Article to the driver of any vehicle immediately to the rear when there is opportunity to give such 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 \$100; upon a second conviction within one year thereafter, shall be fined not more than \$200; and upon a third or subsequent conviction, shall be fined not more than \$500.

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

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

**28.8.9 HAND AND ARM SIGNALS.**

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

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

**28.8.99 PENALTY.**

Unless otherwise provided, whoever violates any provision of this article shall be fined not more than one hundred dollars (\$100.00); upon a second conviction within one year thereafter shall be fined not more than two hundred dollars (\$200.00); and upon a third or subsequent conviction, shall be fined not more than five hundred dollars (\$500.00).

## **Article 9 Right of Way**

28.9.1	Right of Way at Intersections
28.9.2	Right of Way When Turning Left
28.9.3	Right of Way at Through Street or Highway or Stop Intersections
28.9.4	Driving onto Roadway From Private Road or Driveway; Duty to Yield
28.9.5	Right of Way of Emergency Vehicle
28.9.6	Turning into Private Driveway, Alley or Building
28.9.99	Penalty

### **RIGHT OF WAY**

#### **28.9.1 RIGHT OF WAY AT INTERSECTIONS.**

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

#### **28.9.2 RIGHT OF WAY WHEN TURNING LEFT.**

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

#### **28.9.3 RIGHT OF WAY AT THROUGH STREET OR HIGHWAY OR STOP INTERSECTIONS.**

- (a) The driver of a vehicle shall stop as required by at the entrance to a through

street or highway and shall yield the right of way to other vehicles which have entered the intersection from such through streets or highways or which are approaching so closely on such through street or highway as to constitute an immediate hazard but the driver having so yielded may proceed.

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

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

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

**28.9.5 RIGHT OF WAY OF EMERGENCY VEHICLE.**

- (a) Upon the immediate approach of an authorized emergency vehicle equipped with at least one flashing lighted lamp of a color authorized by Article 11, Section 18 of this Chapter which is visible under normal atmospheric conditions from a distance of 500 feet to the front of such vehicle other than a police vehicle when operated as an authorized emergency vehicle, and when the driver is giving audible signal by siren, exhaust whistle or bell.
- (b) 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.
- (c) This section shall not operate to relieve the driver of an authorized emergency vehicle from the duty to drive with due regard for the safety of all persons using the street or highway.

**28.9.6 TURNING INTO PRIVATE DRIVEWAY, ALLEY OR BUILDING.**

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

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

- (b) Upon a roadway where traffic is proceeding in opposite directions, approach for a left turn and a left turn shall be made from that portion of the right half of the roadway nearest the center line thereof.
- (c) Upon a roadway where traffic is restricted to one direction, approach for a left turn and a left turn shall be made as close as practicable to the left-hand curb or edge of the roadway.
- (d) It shall be the duty of the driver of any vehicle entering a private road or driveway, alley or building to yield the right of way to pedestrians lawfully using the sidewalk or sidewalk area extending across any alleyway, private road, driveway or building.

**28.9.99 PENALTY.**

Whoever violates any provision of this article shall be fined not more than two hundred dollars (\$200.00); upon a second conviction within one year thereafter shall be fined not more than three hundred dollars (\$300.00); and upon a third or subsequent conviction, shall be fined not more than one thousand dollars (\$1,000).

**Article 10  
SPECIAL STOPS REQUIRED**

- 28.10.1 Through Streets and Stop Intersections
- 28.10.2 Driving onto Roadway from Place Other than Roadway; Stopping at Sidewalk
- 28.10.3 Stopping for School Bus; Signs and Warning Lights; Sale of School Bus
- 28.10.4 Stopping for Passenger Van; Signs and Warning Lights
- 28.10.5 Obstructing Intersection or Crosswalk
- 28.10.99 Penalty

**28.10.1 THROUGH STREETS AND STOP INTERSECTIONS.**

- (a) Council or other designated traffic authority may designate through streets or highways and erect stop signs at specified entrances thereto or may designate any intersection as a stop intersection and erect like signs at one or more entrances to such intersection.
- (b) Every such sign shall bear the word "Stop" in letters not less than six inches in height and such sign shall at nighttime be rendered luminous by steady or flashing internal illumination, or by a fixed floodlight projected on the face of the sign, or by efficient reflecting elements on the face of the sign.
- (c) Every stop sign shall be erected as near as practicable to the nearest line of the crosswalk on the near side of the roadway.

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

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

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

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

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

If the identity of the driver cannot be ascertained, then any such owner or lessee of the vehicle in violation of this subsection shall be subject to the penalty provided for a violation of this subsection provided, however, that such conviction shall not subject such owner or lessee to further administrative or other penalties for such offense, notwithstanding other provisions of the West Virginia Code or this Traffic Code to the contrary.

- (b) Every bus used for the transportation of school children shall bear upon the front and rear thereof a plainly visible sign containing the words "school bus" in letters not less than eight inches in height. When a contract school bus is being operated upon a street or highway for purposes other than the actual transportation of children either to or from school, all markings thereon indicating



“school bus” shall be covered or concealed. Any school bus sold or transferred to another owner by a county board of education, agency or individual, shall have all flashing warning lights disconnected and all lettering removed or permanently obscured, except when sold or transferred for the transportation of school children.

- (c) Any driver in violation of Article 10, Section Four of this Chapter is guilty of a misdemeanor and, upon conviction for a first offense, shall be fined not less than \$500 or more than \$1000, or confined in jail not more than six months, or both fined and confined. Upon conviction of a second violation of Article 10 Section Four of this Chapter, the driver shall be fined not less than \$1,000 nor more than \$1,500, or confined in jail not more than six months, or both fined and confined. Upon conviction of a third or subsequent violation of Article 11, Section Four of this Chapter, the driver shall be fined \$2,000 and confined not less than 48 hours in jail but not more than six months.

#### **28.10.4 STOPPING FOR PASSENGER VAN; SIGNS AND WARNING LIGHTS.**

- (a) Every passenger van used for the transportation of children as defined in 28.1.22 of this Chapter shall bear upon the front and rear thereof a plainly visible sign containing the warning “Caution: Loading and Unloading Passengers” in letters not less than six inches in height. Every such passenger van shall be equipped with either flashing warning signal lights as are contemplated and referred to in West Virginia Code 17C-12-8, or a red caution flag which the driver or some other adult must use by exiting the passenger van and displaying while assisting in the loading or unloading of passengers. Such vehicles may also be equipped with a white flashing strobotron warning light that meets the requirements set forth in West Virginia Code 17C-15-26(e) as said Code section currently exists or may be amended from time to time.
- (b) The driver of a vehicle upon meeting or overtaking from any direction any passenger van which has stopped for the purpose of loading or unloading passengers shall stop his or her vehicle before reaching the passenger van when there is in operation on the passenger van flashing warning signal lights or when an adult is outside the passenger van with a red caution flag and assisting with the loading or unloading of passengers. The driver of a vehicle may not proceed until he or she is signaled by the passenger van driver to proceed, the passenger van flashing signal lights are no longer actuated, or the passenger van resumes motion. This section applies whenever the passenger van is loading or unloading children on any street, highway, parking lot, private road or driveway: provided, that the driver of a vehicle upon a controlled access highway need not stop upon meeting or passing a passenger van which is on a different roadway or adjacent to the highway and where pedestrians are not permitted to cross the roadway.

#### **28.10.5 OBSTRUCTING INTERSECTION OR CROSSWALK.**

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

**28.10.99 PENALTY.**

- (a) Driving Onto Roadway From Place Other Than Roadway. Whoever violates Section 28.10.2 shall be fined not more than one hundred dollars (\$100.00); upon a second conviction within one year thereafter shall be fined not more than two hundred dollars (\$200.00); and upon a third or subsequent conviction, shall be fined not more than five hundred dollars (\$500.00).
- (b) Stopping For School Bus or Passenger Van. Any driver acting in violation of 28.10.4(b) shall be guilty of a misdemeanor and, upon conviction thereof, fined not less than fifty dollars (\$50.00) nor more than two hundred dollars (\$200.00). If the identity of the driver cannot be ascertained, then any such owner or lessee of the vehicle in violation of 28.10.4(b) shall be fined not less than twenty-five dollars (\$25.00) nor more than one hundred dollars (\$100.00): provided, however, that such conviction shall not subject such owner or lessee to further administrative or other penalties for such offense, notwithstanding other provisions of this Traffic Code to the contrary.
- (c) If no penalty is specified in any subsection of Article 10, then the penalties found in Article 2, Section 28.2.99 are applicable.

**Article 11**

**EQUIPMENT**

- 28.11.1 Driving Unsafe Vehicles; Application; Farm and Road Equipment  
Exceptions
- 28.11.2 When Lighted Lights Required
- 28.11.3 Measurement of Distances and Heights
- 28.11.4 Headlights on Motor Vehicles and Motorcycles
- 28.11.5 Tail Light; Illumination of Rear License Plate
- 28.11.6 Red Light or Red Flag on Extended Loads
- 28.11.7 Lights on Parked or Stopped Vehicles
- 28.11.8 Lights on Slow-Moving Vehicles
- 28.11.9 Spotlights and Auxiliary Lights
- 28.11.10 Signal Lamps and Signal Devices
- 28.11.11 Cowl, Fender and Back-up Lights; Flashing Hazard Lights
- 28.11.12 Multiple-beam Road-lighting Equipment Requirements
- 28.11.13 Use of Headlight Beams

28.11.14	Single-beam Road Lighting Equipment
28.11.15	Lights on Motorcycles, Motor-Driven Cycles and Mopeds
28.11.16	Alternate Road-lighting Equipment
28.11.17	Number of Driving Lights Required or Permitted
28.11.18	Special Restrictions on Lights
28.11.19	Motor Vehicle or Motorcycle Brakes
28.11.20	Inspection of Brakes on Motorcycles, Motor-driven Cycles and Mopeds
28.11.21	Horn, Siren and Theft Alarm Signal
28.11.22	Muffler; Muffler Cutout; Excessive Smoke, Gas or Noise
28.11.23	Rear-view Mirror
28.11.24	Windshield to be Unobstructed; Windshield Wiper
28.11.25	Tire Equipment Restrictions
28.11.26	Safety Glass in Motor Vehicles
28.11.27	Vehicles Transporting Explosives
28.11.28	Television Receiver in Driver's View Prohibited
28.11.29	Safety Equipment for Motorcyclists, Motorcycles, Motor-Driven Cycles
and	Mopeds
28.11.30	Certification Labels on Mopeds
28.11.31	Child Passenger Safety Devices Required; Child Safety Seats and
Booster	Seats
28.11.32	Alteration of Suspension System
28.11.33	Sun Screening Devices
28.11.34	Operation of Vehicles with Safety Belts
28.11.35	Use of Engine Compression Brakes Prohibited
28.11.99	Penalty

### **28.11.1 DRIVING UNSAFE VEHICLES; APPLICATION; FARM AND ROAD EQUIPMENT EXCEPTIONS.**

- (a) No person shall drive or move and no owner shall cause or knowingly permit to be driven or moved on any street or highway any vehicle or combination of vehicles which is in such unsafe condition as to endanger any person, or which does not contain those parts or is not at all times equipped with such lamps and other equipment in proper condition and adjustment as required in this article, or which is equipped in any manner in violation of this article, or for any person to do any act forbidden or fail to perform any act required under this article.
- (b) Nothing contained in this article shall be construed to prohibit the use of additional parts and accessories on any vehicle not inconsistent with the provisions of this article.
- (c) The provisions of this article with respect to equipment on vehicles shall not apply to implements of husbandry, road machinery, road rollers or farm tractors except as herein made applicable. Every farm tractor equipped with an electric lighting system shall at all times mentioned in Section 28.11.2 display a red tail

lamp and either multiple-beam or single-beam head lamps meeting the requirements of Section 28.11.2.

### **28.11.2 WHEN LIGHTED LIGHTS REQUIRED.**

Every vehicle other than a school bus, motorcycle, motor-driven cycle or moped operated upon a street or highway within this Municipality at any time from sunset to sunrise or during fog, smoke, rain or other unfavorable atmospheric conditions, or at any other time when there is not sufficient light to render clearly discernible persons and vehicles on the street or highway at a distance of 500 feet ahead shall display lighted head lamps and illuminating devices as hereinafter respectively required for different classes of vehicles, subject to exceptions with respect to parked vehicles as provided for in Section 28.11.7(c). Every school bus, motorcycle, motor-driven cycle and moped shall display lighted head lamps at all times when upon the street or highway.

### **28.11.3 MEASUREMENT OF DISTANCES AND HEIGHTS.**

- (a) Whenever requirement is hereinafter declared as to the distance from which certain lamps and devices shall render objects visible or within which such lamps or devices shall be visible such provisions shall apply during the times stated in Section 28.11.2 in respect to a vehicle without load when upon a straight, level, unlighted street or highway under normal atmospheric conditions unless a different time or condition is expressly stated.
- (b) Whenever requirement is hereinafter declared as to the mounted height of lamps or devices it shall mean from the center of such lamp or device to the level ground upon which the vehicle stands when such vehicle is without a load. (WV Code 17C-15-3)

### **28.11.4 HEADLIGHTS ON MOTOR VEHICLES AND MOTORCYCLES.**

- (a) Every motor vehicle other than a motorcycle, motor-driven cycle or moped shall be equipped with at least two head lamps with at least one on each side of the front of the motor vehicle, which head lamps shall comply with the requirements and limitations set forth in this article.
- (b) Every motorcycle, motor-driven cycle and moped shall be equipped with at least one and not more than two head lamps which shall comply with the requirements and limitations of this article.
- (c) Every head lamp upon every motor vehicle, including every motorcycle, motor-driven cycle and moped, shall be located at a height measured from the center of the head lamp of not more than fifty-four inches nor less than twenty-four inches to be measured as set forth in Section 28.11.3.

### **28.11.5 TAIL LIGHT; ILLUMINATION OF REAR LICENSE PLATE.**

- (a) Every motor vehicle, trailer or semitrailer, and any other vehicle which is being drawn at the end of a train of vehicles, shall be equipped with at least one tail lamp mounted on the rear, which, when lighted as herein before required, shall emit a red light plainly visible from a distance of 500 feet to the rear, provided that in the case of a train of vehicles only the tail lamp on the rearmost vehicle need actually be seen from the distance specified.
- (b) Every tail lamp upon every vehicle shall be located at a height of not more than sixty inches nor less than twenty inches to be measured as set forth in Section 28.11.3(b).
- (c) Either a tail lamp or a separate lamp shall be so constructed and placed as to illuminate with a white light the rear registration plate and render it clearly legible from a distance of fifty feet to the rear. Any tail lamp or tail lamps, together with any separate lamp for illuminating the rear registration plate, shall be so wired as to be lighted whenever the head lamps or auxiliary driving lamps are lighted.

### **28.11.6 RED LIGHT OR RED FLAG ON EXTENDED LOADS.**

Whenever the load upon any vehicle extends to the rear four feet or more beyond the bed or body of such vehicle there shall be displayed at the extreme rear end of the load, at the times specified in Section 28.11.2, a red light or lantern plainly visible from a distance of at least 500 feet to the sides and rear. The red light or lantern required under this section shall be in addition to the red rear light required upon every vehicle. At any time there shall be displayed at the extreme rear end of such load a red flag or cloth not less than twelve inches square and so hung that the entire area is visible to the driver of a vehicle approaching from the rear.

### **28.11.7 LIGHTS ON PARKED OR STOPPED VEHICLES.**

- (a) Whenever a vehicle is lawfully parked upon a street or highway during the hours between sunset and sunrise and in the event there is sufficient light to reveal any person or object within a distance of 500 feet upon such street or highway no lights need be displayed upon such parked vehicle.
- (b) Whenever a vehicle is parked or stopped upon a roadway or shoulder adjacent thereto, whether attended or unattended, during the hours between sunset and sunrise and there is not sufficient light to reveal any person or object within a distance of 500 feet upon such street or highway, such vehicle so parked or stopped shall be equipped with one or more lamps meeting the following requirements: At least one lamp shall display a white or amber light visible from a distance of 500 feet to the front of the vehicle, and the same lamp or at least one other lamp shall display a red light visible from a distance of 500 feet to the rear of the vehicle, and the location of such lamp or lamps shall always be such that

at least one lamp or combination of lamps meeting the requirements of this section is installed as near as practicable to the side of the vehicle which is closest to passing traffic. The foregoing provisions shall not apply to a motorcycle, motor-driven cycle or moped.

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

#### **28.11.8 LIGHTS ON SLOW-MOVING VEHICLES.**

All vehicles including animal-drawn vehicles and including those referred to in Section 28.11.1(c) not hereinbefore specifically required to be equipped with lamps, shall at the times specified in Section 28.11.2 be equipped with at least one lighted lamp or lantern exhibiting a white light visible from a distance of 500 feet to the front of such vehicle and with a lamp or lantern exhibiting a red light visible from a distance of 500 feet to the rear.

#### **28.11.9 SPOTLIGHTS AND AUXILIARY LIGHTS.**

- (a) Spot Lamps. Any motor vehicle except a public utility company maintenance vehicle may be equipped with not more than one spot lamp and every lighted spot lamp shall be so aimed and used upon approaching another vehicle that no part of the high-intensity portion of the beam will be directed to the left of the prolongation of the extreme left side of the vehicle nor more than 100 feet ahead of the vehicle. A public utility company maintenance vehicle may be equipped with more than one spot lamp but all lighted spot lamps shall be aimed and used in conformity to the requirements of this subsection.
- (b) Fog Lamps. Any motor vehicle may be equipped with not more than two fog lamps mounted on the front at a height not less than twelve inches nor more than thirty inches above the level surface upon which the vehicle stands and so aimed that when the vehicle is not loaded none of the high-intensity portion of the light to the left of the center of the vehicle shall at a distance of twenty-five feet ahead project higher than a level of four inches below the level of the center of the lamp from which it comes.
- (c) Auxiliary Passing Lamp. Any motor vehicle may be equipped with not more than one auxiliary passing lamp mounted on the front at a height not less than twenty-four inches nor more than forty-two inches above the level surface upon which the vehicle stands and every auxiliary passing lamp shall meet the requirements and limitations set forth in this article.
- (d) Auxiliary Driving Lamp. Any motor vehicle may be equipped with not more than one auxiliary driving lamp mounted on the front at a height not less than sixteen inches nor more than forty-two inches above the level surface upon which the vehicle stands and every such auxiliary driving lamp shall meet the requirements and limitations set forth in this article.

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

**28.11.10 SIGNAL LAMPS AND SIGNAL DEVICES.**

- (a) Any motor vehicle may be equipped and when required under this Chapter shall be equipped with the following signal lamps or devices:
  - 1. A stop lamp on the rear which shall emit a red or yellow light and which shall be actuated upon application of the service (foot) brake and which may but need not be incorporated with a tail lamp.
  - 2. A lamp or lamps or mechanical signal device capable of clearly indicating any intention to turn either to the right or to the left and which shall be visible both from the front and rear.
- (b) A stop lamp shall be plainly visible and understandable from a distance of 100 feet to the rear both during normal sunlight and at nighttime and signal lamp or lamps indicating intention to turn shall be visible and understandable during daytime and nighttime from a distance of 100 feet both to the front and rear. When a vehicle is equipped with a stop lamp or other signal lamps, such lamp or lamps shall at all times be maintained in good working condition. No stop lamp or signal lamp shall project a glaring or dazzling light.
- (c) All mechanical signal devices shall be self-illuminated when in use at the times mentioned in Section 28.11.2.

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

- (a) Any motor vehicle may be equipped with not more than two side cowl or fender lamps which shall emit an amber or white light without glare.
- (b) Any motor vehicle may be equipped with not more than one running-board courtesy lamp on each side thereof which shall emit a white or amber light without glare.
- (c) Except for school buses as provided in this subsection, any motor vehicle may be equipped with not more than two back-up lamps either separately or in combination with other lamps, but any such back-up lamp shall not be lighted when the motor vehicle is in forward motion. School buses used for the transportation of school children in this Municipality, whether owned and

operated by a county board of education or privately owned and operated under contract with a county board of education, shall be equipped with two back-up lamps, one on each side of the rear door, with white lens or reflectors, capable of lighting the roadway and objects to the rear of the bus for safe backing during darkness, and which, at the option of the county board of education, may each provide fifty candlepower in illumination intensity instead of thirty-two candlepower.

- (d) Any vehicle may be equipped with lamps which may be used for the purpose of warning the operators of other vehicles of the presence of a vehicular traffic hazard requiring the exercise of unusual care in approaching, overtaking or passing, and when so equipped may display such warning in addition to any other warning signals required by this article. The lamps used to display such warning to the front shall be mounted at the same level and as widely spaced laterally as practicable and shall display simultaneously flashing white or amber lights, or any shade of color between white and amber. The lamps used to display such warning to the rear shall be mounted at the same level and as widely spaced laterally as practicable, and shall show simultaneously flashing amber or red lights or any shade of color between amber and red.
- (e) Vehicles used by “rural mail carriers” in carrying or delivering mail in rural areas may be equipped with amber flashing lights. Such lights shall be on the front and rear of the vehicle and may be activated when the vehicle is stopped or decreasing speed in order to stop in the course of carrying, delivering or picking up mail along the route.
- (f) Notwithstanding any other provision of this Chapter to the contrary, any motor vehicle may be equipped with not more than one electroluminescent solid state ceramic front identification plate without glare, mounted in conformance with the manufacturer's specifications.
- (g) Vehicles used as the lead car in a funeral procession are hereby authorized to be equipped with, but are not required to use, purple lamps or purple flashing lights. Such lamps may be used for the purpose of warning the operators of other vehicles of the presence of a vehicular traffic hazard requiring the exercise of unusual care in approaching, overtaking or passing a funeral procession, and when so equipped may display such warning in addition to any other warning signals required by this article. The lamps or flashing lights used to display such warning to the front shall be mounted at the same level and as widely spaced laterally as practicable and shall display simultaneously either illuminating or flashing purple lights. The lamps used to display such warning to the rear shall be mounted at the same level and as widely spaced laterally as practicable, and shall show simultaneously flashing or illuminated purple lights.

**28.11.12 MULTIPLE-BEAM ROAD-LIGHTING EQUIPMENT REQUIREMENTS.**



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

- (a) There shall be an uppermost distribution of light, or composite beam, so aimed and of such intensity as to reveal persons and vehicles at a distance of at least 350 feet ahead for all conditions of loading.
- (b) There shall be a lowermost distribution of light, or composite beam, so aimed and of sufficient intensity to reveal persons and vehicles at a distance of at least 100 feet ahead; and on a straight level road under any condition of loading none of the high-intensity portion of the beam shall be directed to strike the eyes of an approaching driver.
- (c) Every new motor vehicle, other than a motorcycle, motor-driven cycle or moped, registered in the State after January 1, 1952, which has multiple-beam road-lighting equipment shall be equipped with a beam indicator, which shall be lighted whenever the uppermost distribution of light from the head lamps is in use, and shall not otherwise be lighted. Such indicator shall be so designed and located that when lighted it will be readily visible without glare to the driver of the vehicle so equipped.

#### **28.11.13 USE OF HEADLIGHT BEAMS.**

Whenever a motor vehicle is being operated on a roadway or shoulder adjacent thereto during the times specified in Section 28.11.2, 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:

- (a) Whenever a driver of a vehicle approaches an oncoming vehicle within 500 feet, such driver shall use a distribution of light, or composite beam, so aimed that the glaring rays are not projected into the eyes of the oncoming driver. The lowermost distribution of light, or composite beam specified in Section 28.11.12(b) shall be deemed to avoid glare at all times regardless of road contour and loading.
- (b) Whenever the driver of a vehicle follows another vehicle within 200 feet to the rear, except when engaged in the act of overtaking and passing, such driver shall use a distribution of light permissible under this Chapter other than the uppermost distribution of light specified in Section 28.11.12(a).
- (c) Any person who violates any of the provisions of this section shall be guilty of a

misdemeanor, and, upon conviction thereof, shall be fined not more than one hundred dollars (\$100.00).

**28.11.14 SINGLE-BEAM ROAD-LIGHTING EQUIPMENT.**

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

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

**28.11.15 LIGHTS ON MOTORCYCLES, MOTOR-DRIVEN CYCLES AND MOPEDS.**

- (a) Every vehicle other than a motorcycle, motor-driven cycle or moped operated upon a highway within that City at any time from sunset to sunrise and at any other time when there is not sufficient light to render clearly discernible persons and vehicles on the highway at a distance of 500 feet ahead shall display lighted lamps and illuminating devices as hereinafter respectively required for different classes of vehicles, subject to exceptions with respect to parked vehicles as hereinafter stated. Every motorcycle, motor-driven cycle, and moped shall display lighted head lamps at all times when upon the highway.
- (b) Any person who violates any of the provisions of this section shall be guilty of a misdemeanor, and, upon conviction thereof, shall be fined not more than one hundred dollars (\$100.00).

**28.11.16 ALTERNATE ROAD-LIGHTING EQUIPMENT.**

Any motor vehicle may be operated under the conditions specified in Section 28.11.2 when equipped with two lighted lamps upon the front thereof capable of revealing persons and objects seventy-five feet ahead in lieu of lamps required in Section 28.11.12, or Section 28.11.14, provided that at no time shall it be operated at a speed in excess of twenty miles per hour.

**28.11.17 NUMBER OF DRIVING LIGHTS REQUIRED OR PERMITTED.**

- (a) At all times specified in Section 28.11.2 at least two lighted lamps shall be

displayed, one on each side at the front of every motor vehicle other than a motorcycle, motor-driven cycle or moped, except when such vehicle is parked subject to the regulations governing lights on parked vehicles.

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

#### **28.11.18 SPECIAL RESTRICTIONS ON LIGHTS.**

- (a) Any lighted lamp or illuminating device upon a motor vehicle other than head lamps, spot lamps, auxiliary lamps or flashing front-direction signals which projects a beam of light of an intensity greater than 300 candlepower shall be so directed that no part of the beam will strike the level of the roadway on which the vehicle stands at a distance of more than seventy-five feet from the vehicle.
- (b) No person shall drive or move any vehicle or equipment upon any street or highway with any lamp or device thereon displaying other than a white or amber light visible from directly in front of the center thereof except as authorized by subsection (d) of this section.
- (c) Except as authorized in subsections (d) and (f) of this section and Section 28.11.11, flashing lights are prohibited on motor vehicles: Provided, that any vehicle as a means for indicating right or left turn, or any vehicle as a means of indicating the same is disabled or otherwise stopped for an emergency may have blinking or flashing lights.
- (d) Notwithstanding any other provisions of this Traffic Code, the following colors of flashing warning lights are restricted for the use of the type of vehicle designated:
  1. Blue flashing warning lights are restricted to police vehicles. Authorization for police vehicles shall be designated by the chief administrative official of this Municipality.
  2. Except for standard vehicle equipment authorized by Section 28.11.11, red flashing warning lights are restricted to the following:
    - A) Ambulances;
    - B) Fire-fighting vehicles;
    - C) Hazardous material response vehicles;
    - D) Industrial fire brigade vehicles;
    - E) Rescue squad vehicles not operating out of a fire department;
    - F) School buses;

- G) Class A vehicles, as defined by West Virginia Code 17A-10-1 of those firefighters who are authorized by their fire chiefs to have the lights;
- H) Class A vehicles of members of duly chartered rescue squads not operating out of a fire department;
- I) Class A vehicles of members of ambulance services or duly chartered rescue squads who are authorized by their respective chiefs to have the lights;
- J) Class A vehicles of out-of-state residents who are active members of West Virginia fire departments, ambulance services or duly chartered rescue squads who are authorized by their respective chiefs to have the lights; and
- K) West Virginia Department of Agriculture emergency response vehicles.
- L) Vehicles designated by the Secretary of the Department of Military Affairs and Public Safety for emergency response or emergency management by the Division of Corrections, Regional Jail and Correctional Facility Authority, Division of Juvenile Services and Division of Homeland Security and Emergency Management; and
- M) Class A vehicles of emergency response or emergency management personnel as designated by the Secretary of the Department of Military Affairs and Public Safety and the county commission of the county of residence.

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

- N) Authorization for all ambulances shall be designated by the Department of Health and Human Resources and the sheriff of the county of residence.
- O) Authorization for all fire department vehicles shall be designated by the Fire Chief and the State Fire Marshal's Office.
- P) Authorization for all hazardous material response vehicles and industrial fire brigades shall be designated by the Chief of the Fire Department and the State Fire Marshal's Office.
- Q) Authorization for all rescue squad vehicles not operating out of a fire department shall be designated by the squad chief, the sheriff of the county of

residence and the Department of Health and Human Resources.

- R) Authorization for school buses shall be designated as set out in West Virginia Code 17C-14-12.
- S) Authorization for firefighters to operate Class A vehicles shall be designated by their fire chiefs and the State Fire Marshal's Office.
- T) Authorization for members of ambulance services or any other emergency medical service personnel to operate Class A vehicles shall be designated by their chief official, the Department of Health and Human Resources and the sheriff of the county of residence.
- U) Authorization for members of duly chartered rescue squads not operating out of a fire department to operate Class A vehicles shall be designated by their squad chiefs, the sheriff of the county of residence and the Department of Health and Human Resources.
- V) Authorization for out-of-state residents operating Class A vehicles who are active members of a West Virginia fire department, ambulance services or duly chartered rescue squads shall be designated by their respective chiefs.
- W) Authorization for West Virginia Department of Agriculture emergency response vehicles shall be designated by the Commissioner or the Department of Agriculture.
- X) Authorization for vehicles for emergency response or emergency management by the Division of Corrections, Regional Jail and Correctional Facility Authority, Division of Juvenile Services and Division of Homeland Security and Emergency Management shall be designated by the Secretary of the Department of Military Affairs and Public Safety.
- Y) Authorization for Class A vehicles of emergency response or emergency management personnel as designated by the Secretary of the Department of Military Affairs and Public Safety and the county commission of the county of residence.

4. Yellow or amber flashing warning lights are restricted to the following:

- Z) All other emergency vehicles, including tow trucks and wreckers, authorized by the West Virginia Code Chapter 17C and 17C-15-27;
- AA) Postal service vehicles and rural mail carriers, as authorized in Section 28.11.11;

- BB) Rural newspaper delivery vehicles;
- CC) Flag car services;
- DD) Vehicles providing road service to disabled vehicles;
- EE) Service vehicles of a public service corporation;
- FF) Snow removal equipment; and
- GG) School buses; and
- HH) Automotive fire apparatus owned by a municipality or other political subdivision, by a volunteer or part-volunteer fire company or department or by an industrial fire brigade.

5. The use of yellow or amber flashing warning lights shall be authorized as follows:

- II) Authorization for tow trucks, wreckers, rural newspaper delivery vehicles, flag car services, vehicles providing road service to disabled vehicles, service vehicles of a public service corporation and postal service vehicles shall be designated by the sheriff of the county of residence.
- JJ) Authorization for snow removal equipment shall be designated by the Commissioner of the Division of Highways.
- KK) Authorization for school buses shall be designated as set out in West Virginia Code 17C-14-12 and any amendments.
- LL) Authorization for automotive fire apparatus shall be designated by the Fire Chief in conformity with the NFPA 1901 standard for automotive fire apparatus as published by the National Fire Protection Association (NFPA) on July 18, 2003, and adopted by the State Fire Commission by legislative rule (87 CSR 1, et seq.), except as follows:
  - 1) With the approval of the State Fire Marshal, used automotive fire apparatus may be conformed to the NFPA standard in effect on the date of its manufacture or conformed to a later NFPA standard, and
  - 2) Automotive fire apparatus may be equipped with blinking or flashing headlamps.

(e) Notwithstanding the foregoing provisions of this section, any vehicle belonging to a county board of education, an organization receiving funding from the state or federal transit administration for the purpose of providing general public transportation, or hauling solid waste may be equipped with a white flashing strobotron warning light. This strobe light may be installed on the roof of a school bus, a public transportation vehicle, or a vehicle hauling solid waste not to exceed one-third the body length forward from the rear

of the roof edge. The light shall have a single clear lens emitting light three hundred sixty degrees around its vertical axis and may not extend above the roof more than six and one-half inches. A manual switch and a pilot light must be included to indicate the light is in operation.

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

#### **28.11.19 MOTOR VEHICLE OR MOTORCYCLE BRAKES.**

**(a) Brake Equipment Required.**

1. Every motor vehicle, other than a motorcycle, motor-driven cycle or moped, when operated upon a street or highway shall be equipped with brakes adequate to control the movement of and to stop and hold such vehicle, including two separate means of applying the brakes, each of which means shall be effective to apply the brakes to at least two wheels. If these two separate means of applying the brakes are connected in any way, they shall be so constructed that failure of any one part of the operating mechanism shall not leave the motor vehicle without brakes on at least two wheels.
2. Every motorcycle, motor-driven cycle and moped, when operated upon a street or highway, shall be equipped with at least one brake which may be operated by hand or foot.
3. Every trailer or semitrailer of a gross weight of 3,000 pounds or more when operated upon a street or highway shall be equipped with brakes adequate to control the movement of and to stop and to hold such vehicle and so designed as to be applied by the driver of the towing motor vehicle from its cab, and such brakes shall be so designed and connected that in case of an accidental breakaway of the towed vehicle the brakes shall be automatically applied.
4. Every new motor vehicle, trailer or semitrailer hereinafter sold in this State and operated upon the streets or highways shall be equipped with service brakes upon all wheels, with the following exceptions:
  - a) Trucks and truck-tractors having three or more axles need not have brakes on the front wheels, except when such vehicles are equipped with at least two steerable axles, the wheels of one such axle need not be equipped with brakes, and
  - b) Any motorcycle, motor-driven cycle or moped and any semitrailer of less than 1,500 pounds gross weight need not be equipped with brakes.

5. In any combination of motor-driven vehicles, means shall be provided for applying the rearmost trailer brakes, of any trailer equipped with brakes, in approximate synchronism with the brakes on the towing vehicle and developing the required braking effort on the rearmost wheels at the fastest rate; or means shall be provided for applying braking effort first on the rearmost trailer equipped with brakes; or both of the above means capable of being used alternatively may be employed.

6. Every such vehicle and combination of vehicles, except motorcycles, motor-driven cycles and mopeds, shall be equipped with parking brakes adequate to hold the vehicle on any grade on which it is operated, under all conditions of loading on a surface free from snow, ice or loose material. The parking brakes shall be capable of being applied in conformance with the foregoing requirements by the driver's muscular effort or by spring action or by equivalent means. Their operation may be assisted by the service brakes or other source of power provided that failure of the service brake actuation system or other power assisting mechanism will not prevent the parking brakes from being applied in conformance with the foregoing requirements. The parking brakes shall be so designed that when once applied they shall remain applied with the required effectiveness despite exhaustion of any source of energy or leakage of any kind.

7. The same brake drums, brake shoes and lining assemblies, brake shoe anchors and mechanical brake shoe actuation mechanism normally associated with the wheel brake assemblies may be used for both the service brakes and the parking brakes. If the means of applying the parking brakes and the service brakes are connected in any way, they shall be so constructed that a failure of any one part shall not leave the vehicle without operative brakes.

8. The brake shoes operating within or upon the drums on the vehicle wheels of any motor vehicle may be used for both service and hand operation.

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

Feet to stop    Deceleration

from 20 miles in feet  
per per hour second

Vehicle or combinations

of vehicles having

brakes on all wheels 30 14



Vehicles or combinations

of vehicles not having brakes

on all wheels 40 10.7

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

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

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

**28.11.21 HORN, SIREN AND THEFT ALARM SIGNAL.**

- (a) Every motor vehicle when operated upon a street or highway shall be equipped with a horn in good working order and capable of emitting sound audible under normal conditions from a distance of not less than 200 feet, but no horn or other warning device shall emit an unreasonably loud or harsh sound or a whistle. The driver of a motor vehicle shall when reasonably necessary to ensure safe operation give audible warning with his horn but shall not otherwise use such horn when upon a street or highway.
- (b) No vehicle shall be equipped with nor shall any person use upon a vehicle any siren, whistle or bell, except as otherwise permitted in this section.
- (c) It is permissible but not required that any commercial vehicle be equipped with a theft alarm signal device which is so arranged that it cannot be used by the driver as an ordinary warning signal.
- (d) Any authorized emergency vehicle may be equipped with a siren, whistle or bell, capable of emitting sound audible under normal conditions from a distance of not less than 500 feet and of a type approved by the Department of Motor Vehicles, but such siren shall not be used except when such vehicle is operated in response to an emergency or in the immediate pursuit of an actual or suspected violator of the law, in which such latter events the driver of such vehicle shall sound such siren when reasonably necessary to warn pedestrians and other drivers of the approach thereof.

**28.11.22 MUFFLER; MUFFLER CUTOUT; EXCESSIVE SMOKE, GAS OR NOISE.**

- (a) No person shall drive or move on any street or highway within this Municipality any motor vehicle, trailer, semitruck or pole trailer or any combination thereof, unless the equipment upon every such vehicle is in good working order and adjustment and the vehicle is in such safe mechanical condition as not to endanger the driver or other occupant or any person upon any street or highway of this Municipality. Any person violating the provisions of this section shall be guilty of a misdemeanor.
- (b) Every motor vehicle shall at all times be equipped with a muffler in good working order and in constant operation to prevent excessive or unusual noise; such muffler shall be the muffler originally installed by the manufacturer of the vehicle or if a replacement, the equivalent thereof. No person shall use a muffler cutout, bypass, or similar device upon a motor vehicle on a street or highway within the City of Weston. The engine and power mechanisms of every motor vehicle shall be so equipped and adjusted as to prevent the escape of excessive fumes or smoke. Any person violating the provisions of this section shall be guilty of a misdemeanor.

**28.11.23 REAR-VIEW MIRROR.**

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

**28.11.24 WINDSHIELD TO BE UNOBSTRUCTED; WINDSHIELD WIPER.**

- (a) No person shall drive any motor vehicle with any sign, poster or other nontransparent material upon the front windshield, side wings or side or rear windows of such vehicle which obstructs the driver's clear view of the street or highway or any intersecting street or highway.
- (b) The windshield on every motor vehicle shall be equipped with a device for cleaning rain, snow or other moisture from the windshield, which device shall be so constructed as to be controlled or operated by the driver of the vehicle.
- (c) Every windshield wiper upon a motor vehicle shall be maintained in good working order.
- (d) Any person who violates any of the provisions of this section shall be guilty of a misdemeanor, and, upon conviction thereof, shall be fined not less than fifty dollars (\$50.00) nor more than five hundred dollars (\$500.00).

**28.11.25 TIRE EQUIPMENT RESTRICTIONS.**

- (a) Every solid rubber tire on a vehicle shall have rubber on its entire traction surface at least one inch thick above the edge of the flange of the entire periphery.
- (b) No person shall operate or move on any highway any motor vehicle, trailer or semitrailer having any metal tire in contact with the roadway.
- (c) No tire on a vehicle moved on a highway shall have on its periphery any block, stud, flange, cleat or spike or any other protuberance of any material other than rubber which projects beyond the tread of the traction surface of the tire, except that:
  - 1. It shall be permissible to use farm machinery with tires having protuberances which will not injure the street or highway;
  - 2. It shall be permissible to use tire chains of reasonable proportions upon any vehicle when required for safety because of snow, ice or other conditions tending to cause a vehicle to skid; and
  - 3. It shall be permissible to use studded tires during the period from November 1, of each year until April 15 of the following year. Provided that in the interest of highway maintenance, no vehicle moved on a street or highway, other than school buses, shall be equipped with studded tires which are operational with a recommended air pressure greater than forty pounds per square inch.
  - 4. No studded tires or chains shall be sold or used within the Municipality which do not meet the specifications established by the rules and regulations which the Commissioner of Highways shall promulgate.
- (d) Council may in its discretion issue special permits authorizing the operation upon the street or highway of traction engines or tractors having movable tracks with transverse corrugations upon the periphery of such movable tracks or farm tractors or other farm machinery, the operation of which upon a highway would otherwise be prohibited under this Traffic Code.

**28.11.26 SAFETY GLASS IN MOTOR VEHICLES.**

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

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

**28.11.27 VEHICLES TRANSPORTING EXPLOSIVES.**

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

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

**28.11.28 TELEVISION RECEIVER IN DRIVER'S VIEW PROHIBITED.**

No motor vehicle shall be operated on any street or highway in this Municipality when equipped with a television receiver unless such receiver is so placed that the screen or picture tube of such receiver is visible only in the rear seat of such motor vehicle and not in view of the operator of such motor vehicle. Exceptions to this rule as outlined in West Virginia Code 17C-15-42(b), or any of its amendments, shall not be considered violations of this section.

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

- (a) No person shall operate or be a passenger on any motorcycle or motor-driven cycle unless he is wearing securely fastened on his head by either a neck or chin strap a protective helmet designed to deflect blows, resist penetration and spread impact forces. Any helmet worn by an operator or passenger shall meet the current performance specifications established by the American National Standards Institute Standard, Z 90.1, the United States Department of Transportation Federal Motor Vehicle Safety Standard No. 218 or Snell Safety Standards for Protective Headgear for Vehicle Users or any other standard as may be adopted by the State of West Virginia.
- (b) No person shall operate or be a passenger on any motorcycle or motor-driven cycle unless he is wearing safety, shatter-resistant eyeglasses (excluding contact lenses), or eyegoggles or face shield that complies with the performance specifications established by the American National Standards Institute for Head,

Eye and Respiratory Protection, Z 2.1, or any other standard adopted by the State of West Virginia. In addition, if any motorcycle, motor-driven cycle or moped is equipped with a windshield or windscreen, the windshield or windscreen shall be constructed of safety, shatter-resistant material that complies with the performance specifications established by Department of Transportation Federal Motor Vehicle Safety Standard No. 205 and American National Standards Institute, Safety Glazing Materials for Glazing Motor Vehicles Operated on Land Highways, Standard Z 26.1, or any other standard adopted by the State of West Virginia.

- (c) No person shall operate a motorcycle, motor-driven cycle or moped on which the handlebars or grips are more than fifteen inches higher than the uppermost part of the operator's seat when the seat is not depressed in any manner.
- (d) A person operating a motorcycle, motor-driven cycle or moped shall ride in a seated position facing forward and only upon a permanent operator's seat attached to the vehicle. No operator shall carry any other person nor shall any other person ride on such a vehicle unless the vehicle is designed to carry more than one person, in which event a passenger may ride behind the operator upon the permanent operator's seat if it is designed for two persons, or upon another seat firmly attached to the vehicle to the rear of the operator's seat and equipped with footrests designed and located for use by the passenger or in a sidecar firmly attached to the vehicle. No person shall ride sidesaddle on a seat. An operator may carry as many passengers as there are seats and footrests to accommodate those passengers. Additional passengers may be carried in a factory produced side car provided that there is one passenger per seat. Passengers riding in a sidecar shall be restrained by safety belts.
- (e) Every motorcycle, motor-driven cycle and moped shall be equipped with a rearview mirror affixed to the handlebars or fairings and adjusted so that the operator shall have a clear view of the road and condition of traffic behind him for a distance of at least 200 feet.

**28.11.30 CERTIFICATION LABELS ON MOPEDS.**

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

- i. Name of manufacturer;
- ii. Month and year of manufacture;
- iii. Gross vehicle weight rating (GVWR);
- iv. Gross axle weight rating for front and rear axles (GAWR);

- v. Vehicle identification number;
- vi. Classification type; and
- vii. Statement of, conformance to Federal standards as required by Federal law.

**28.11.31 CHILD PASSENGER SAFETY DEVICES REQUIRED; CHILD SAFETY SEATS AND BOOSTER SEATS.**

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

- (a) Any person who violates any provision of this section shall be guilty of a misdemeanor and, upon conviction, shall be fined not less than ten dollars (\$10.00) nor more than twenty dollars (\$20.00).
- (b) A violation of this section does not by virtue of the violation constitute evidence of negligence or contributory negligence or comparative negligence in any civil action or proceeding for damages.
- (c) If any provision of this section or the application thereof to any person or circumstance is held invalid, the invalidity may not affect other provisions or applications of this section and to this end the subsections of this section are declared to be severable.
- (d) 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.

**28.11.32 ALTERATION OF SUSPENSION SYSTEM.**

- (a) No person shall operate upon a public street or highway any motor vehicle registered or required to be registered in this State if it has been modified by alteration of its bumper mounting on the frame more than four inches from the lower edge of the original manufactured bumper configuration for that vehicle. The bumper must be at least three inches in vertical width, centered on the center line of the motor vehicle and not less than the width of the wheel track

distance. The maximum distance between the vehicle body to the vehicle frame shall not exceed three inches. The distance from the vehicle body to the vehicle frame shall be measured from the vehicle body mount seat to the vehicle frame mount seat. No vehicle shall be modified to cause the vehicle body or chassis to come in contact with the ground, expose the fuel tank to damage from collision, or cause the wheels to come in contact with the body under normal operation. No part of the original suspension system shall be disconnected to defeat the safe operation of the suspension system. Front end suspension by the use of lift blocks is expressly prohibited. However, nothing contained in this section prevents the installation of heavy-duty equipment, including shock absorbers and overload springs. Nothing contained in this section prohibits the operation on a public street or highway of a motor vehicle with normal wear to the suspension system if such normal wear does not adversely affect the control of the vehicle.

- (b) No person shall operate upon a public street or highway any motor vehicle registered in this State if it has been modified by alteration of its altitude from the ground to the extent that its bumpers, measured to any point on the lower edge of the main horizontal bumper bar, exclusive of any bumper guards, do not fall within the limits specified herein for its gross vehicle weight rating category. The front and rear bumper height of trucks whose gross vehicle weight rating is 10,000 pounds or less may be no less than six inches and no more than thirty-one inches. The provisions of this subsection do not apply to trucks with a gross vehicle weight rating in excess of 10,000 pounds. For the purpose of this section, the term "gross vehicle weight ratings" means manufacturer's gross vehicle weight ratings established for that vehicle.
- (c) In the absence of bumpers, and in cases where bumper heights have been lowered or modified more than four inches, height measurements under subsection (a) or (b) shall be made to the bottom of the frame rail.
- (d) This section does not apply to specially designed or modified motor vehicles when operated off the public streets or highways in races and similar events. Such motor vehicles may be lawfully towed on the highways of this State.
- (e) No person shall operate upon a public street or highway any motor vehicle registered or required to be registered in this State if it has been modified by alteration as set out in the provisions of this section unless the tires on the altered motor vehicle meet specifications approved by the United States Department of Transportation. In addition, neither the motor vehicle nor the chassis shall come in contact with the tires under normal operation.
- (f) Modified vehicles must have a special inspection sticker which must be inspected by July 31, 1990. The Municipal Police Department shall record on accident report forms whether a modified vehicle was involved in the accident. (WV Code 17C-15-48)

**28.11.33 SUN SCREENING DEVICES.**

- (a) No person may operate a motor vehicle that is registered or required to be registered in the State on any public highway, road or street that has a sun screening device on the windshield, the front side wings and side windows adjacent to the right and left of the driver and windows adjacent to the rear of the driver that do not meet the requirements of this section. Provided, that law-enforcement, K-9, and other emergency vehicles that are designed to haul animals are exempt from this requirement. No unmarked law-enforcement vehicle, herein exempted, may engage in routine traffic stops.
- (b) A sun screening device when used in conjunction with the windshield must be nonreflective and may not be red, yellow or amber in color. A sun screening device may be used only along the top of the windshield and may not extend downward beyond the ASI line or more than five inches from the top of the windshield whichever is closer to the top of the windshield.
- (c) A sun screening device when used in conjunction with the automotive safety glazing materials of the side wings or side windows located at the immediate right and left of the driver shall be a nonreflective type with reflectivity of not more than twenty percent (20 %) and have a light transmission of not less than thirty-five percent (35 %). The side windows behind the driver and the rear most windows may have a sun screening device that is designed to be used on automotive safety glazing materials that has a light transmission of not less than thirty-five percent (35 %) and a reflectivity of not more than twenty percent (20%). If a sun screening device is used on glazing behind the driver, one right and one left outside rear view mirror is required.
- (d) Each manufacturer shall:
  - 1) Certify to the State Police and Division of Motor Vehicles that a sun screening device used by it is in compliance with the reflectivity and transmittance requirements of this section;
  - 2) Provide a label not to exceed one and one-half square inches in size, with a means for the permanent and legible installations between the sun screening material and each glazing surface to which it is applied that contains the manufacturer's name and its percentage of light transmission; and
  - 3) Include instructions with the product or material for proper installation, including the affixing of the label specified in this section. The labeling or marking must be placed in the left lower corner of each glazing surface when facing the vehicle from the outside.



(e) No person shall:

- 1) Offer for sale or for use any sun screening product or material for motor vehicle use not in compliance with this Article
- 2) Install any sun screening product or material on vehicles intended for use on public roads without permanently affixing the label specified in this section.

(f) The provisions of this section do not apply to a motor vehicle registered in this State in the name of a person, or the person's legal guardian, who has an affidavit signed by a physician or an optometrist licensed to practice in this State that states that the person has a physical condition that makes it necessary to equip the motor vehicle with sun screening material which would be of a light transmittance or luminous reflectance in violation of this section. The affidavit must be in the possession of the person so afflicted, or the person's legal guardian, at all times while being transported in the motor vehicle.

(g) The light transmittance requirement of this section does not apply to windows behind the driver on trucks, buses, trailers, mobile homes and multipurpose passenger vehicles.

(g) As used in this section:

- 1) "Bus" means a motor vehicle with motive power, except a trailer, designed for carrying more than ten persons.
- 2) "Light transmission" means the ratio of the amount of total light to pass through a product or material to the amount of the total light falling on the product or material.
- 3) "Luminous 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 materials.
- 4) "Manufacturer" means any person engaged in the manufacturing or assembling of sun screening products or materials designed to be used in conjunction with vehicle glazing materials for the purpose of reducing the effects of the sun.
- 5) "Motor homes" means vehicular units designed to provide temporary living quarters built into and an integral part of or permanently attached to a self-propelled motor vehicle chassis.

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

**28.11.34 OPERATION OF VEHICLES WITH SAFETY BELTS.**

- (a) A person shall not operate a passenger vehicle on a public street or highway unless the person, any passenger in the back seat under eighteen years of age, and any passenger in the front seat of such passenger vehicle is restrained by a safety belt meeting applicable federal motor vehicle safety standards. For the purposes of this section, "passenger vehicle" means a motor vehicle which is designed for transporting ten passengers or less, including the driver, except that such term does not include a motorcycle, a trailer or any motor vehicle which is not required on the date of the enactment of this section under a federal motor vehicle safety standard to be equipped with a belt system. The provisions of this section shall apply to all passenger vehicles manufactured after the first day of January, 1967, and being 1968 models and newer.
- (b) The required use of safety belts as provided herein does not apply to a duly appointed or contracted rural mail carrier of the United States Postal Service who is actually making mail deliveries or to a passenger or operator with a physically disabling condition whose physical disability would prevent appropriate restraint in such safety belt if the condition is duly certified by a physician who shall state the nature of the disability as well as the reason such restraint is inappropriate.
- (c) A violation of this section is not admissible as evidence of negligence or contributory negligence or comparative negligence in any civil action or proceeding for damages and shall not be admissible in mitigation of damages: provided, that the court may, upon motion of the defendant, conduct an in camera hearing to determine whether an injured party's failure to wear a safety

belt was a proximate cause of the injuries complained of. Upon such a finding by the court, the court may then, in a jury trial, by special interrogatory to the jury, determine (1) that the injured party failed to wear a safety belt, and (2) that the failure to wear the safety belt constituted a failure to mitigate damages. The trier of fact may reduce the injured party's recovery for medical damages by an amount not to exceed five percent (5%) thereof. In the event the plaintiff stipulates to the reduction of five percent (5%) of medical damages, the court shall make the calculations and the issue of mitigation of damages for failure to wear a safety belt shall not be presented to the jury. In all cases, the actual computation of the dollar amount reduction shall be determined by the court.

- (d) Notwithstanding any other provision of this Code to the contrary, no points may be entered on any driver's record maintained by the Division of Motor Vehicles as a result of a violation of this section.
- (e) Nothing contained in this section shall be construed to abrogate or alter the provisions of 28.11.31 of this Chapter relating to the mandatory use of child passenger safety devices.
- (f) Any person who violates the provisions of this section shall be fined not more than twenty-five dollars (\$25.00). No court costs or other fees shall be assessed for a violation of this section. Enforcement of this section shall be accomplished only as a secondary action when a driver of a passenger vehicle has been detained for probable cause of violating another section of this code.

### **28.11.35 USE OF ENGINE COMPRESSION BRAKES PROHIBITED.**

- (a) It shall be unlawful for the driver of any vehicle to use or operate or cause to be used or operated within this Municipality, any engine brake, compression brake or mechanical exhaust device designed in the aid of braking or decelerating of any vehicle that results in excessive, loud, unusual, or explosive noise from such vehicle on any public ways, including, but not limited to, streets, alleys, easements, and rights-of-way, established for vehicle operation, except when necessary for the protection of persons and/or property which cannot be avoided by application of an alternative braking system. Noise caused by the application of engine compression brakes which is effectively muffled or if the application is necessary for the health, safety, and welfare of the City is exempt from the provisions of this section. Noise created by emergency equipment for emergency purposes is also exempt.
- (b) Any person violating this section shall be fined not more than one hundred dollars (\$100.00); upon a second conviction within one year thereafter, shall be fined not more than two hundred dollars (\$200.00); and upon a third or subsequent conviction, shall be fined not more than five hundred dollars (\$500.00).

**28.11.99 PENALTY.**

- (a) General Article Penalty. Unless otherwise provided for in this Article, any person violating any provision of this Article is guilty of a misdemeanor, and upon conviction thereof, shall be fined not more than one hundred dollars (\$100.00); upon a second conviction within one year thereafter, shall be fined not more than two hundred dollars (\$200.00); and upon a third or subsequent conviction, shall be fined not more than five hundred dollars (\$500.00).
- (b) Brakes. Any person violating Sections 28.11.19 or 28.11.20 shall be fined not more than one hundred dollars (\$100.00); upon a second conviction within one year thereafter, shall be fined not more than two hundred dollars (\$200.00) and upon a third or subsequent conviction, shall be fined not more than five hundred dollars (\$500.00).
- (c) Sunscreening Devices. Whoever violates Section 28.11.33 shall be fined not more than two hundred dollars (\$200.00).

**Article 12**

**SIZE, WEIGHT AND LOAD**

- 28.12.1 Oversize or Overweight Vehicles
- 28.12.2 Projecting Loads on Passenger Vehicles
- 28.12.3 Maximum Width, Height and Length
- 28.12.4 Loads Dropping or Leaking
- 28.12.5 Towing Requirements

**28.12.1 OVERSIZE OR OVERWEIGHT VEHICLES.**

- (a) Use of State Route. No person shall operate or move, on state routes within this Municipality, a vehicle, or combination of vehicles, of a size or weight exceeding any limitation stated in West Virginia Code §17-C-17. Violation of this subsection shall constitute a misdemeanor.
- (b) An applicant may seek special written permit issued by the Commissioner of Highways pursuant to West Virginia Code §17C-17-11, or other applicable State Code provisions, to transport a vehicle, or combination of vehicles, that exceed the maximum weight or size specified in West Virginia Code §17C-17-11 or other applicable West Virginia Code provisions. Every such permit shall be carried in the vehicle or combination of vehicles to which it refers and shall be open to inspection by any police officer.
- (c) A holder of a permit issued by the Commissioner of Highways shall not be required to obtain any local permit or license or pay any local fee or charge for movement on any State route within the Municipality; however, it shall be

unlawful to operate any such vehicle or combination of vehicles upon any roadway within the Municipality which is not a State route, except as provided in subsection (d) hereof.

- (d) Use of Local Streets. On streets and highways under the jurisdiction of this Municipality, otherwise known as “local streets,” no person shall operate a vehicle, or combination of vehicles, exceeding weight limits established in West Virginia Code Section 17C-17 or exceeding weight limits designated by this Municipality to accommodate road conditions within, or on, this Municipality’s local streets.

Said limitations do not apply to local streets designated as truck routes and marked as such by appropriate traffic signs and except when such operation is necessary to load or unload property, to go to or from the usual place of storage of such vehicle or to perform any other legitimate business or act other than passage through the Municipality. Operators of vehicles so deviating from either a State route or a designated truck route within the Municipality shall confine such deviation to that required in order to accomplish the purpose of the departure.

- (e) Local Permit and Conditions. Upon application, the Police Chief may issue a local permit authorizing an applicant to move an oversize or overweight vehicle, or combination of vehicles, as defined in subsection (d) above, on local streets as defined in subsection (d) of this Section 28.12.1.

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

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

Signs shall be posted indicating “no thru trucks 15 tons or more unless otherwise posted” or words of similar import to apprise drivers of the limitations imposed by this section. No driver shall disobey the instructions indicated on any such sign.

Violation of any of the limitations, terms or conditions of the permit granted by the Police Chief shall be cause for immediate revocation or suspension of such permit, and subject to potential denial of request for any future permit. Such violation shall also subject the violator to the penalty prescribed by Article 28.2.99 of this Chapter.

**28.12.2 PROJECTING LOADS ON PASSENGER VEHICLES.**

- (a) No passenger-type vehicle shall be operated on any street or highway with any load carried thereon extending beyond the line of the fenders of the left side of such vehicle nor extending more than six inches beyond the line of the fenders on the right side thereof.
- (b) A motor home, travel trailer or truck camper may exceed the maximum width prescribed in Section 28.12.3, if the excess width is attributable to an appurtenance that does not exceed more than six inches beyond the body of the vehicle.

**28.12.3 MAXIMUM WIDTH, HEIGHT AND LENGTH.**

- (a) A vehicle, including any load thereon, may not exceed a height of thirteen feet six inches, but the owner or owners of such vehicles shall be responsible for damage to any bridge or highway structure and to municipalities for any damage to traffic control devices or other highway structures where such bridges, devices or structures have a vehicle clearance of less than thirteen feet six inches.
- (b) A motor vehicle, including any load thereon, may not exceed a length of forty feet extreme overall dimension, inclusive of front and rear bumpers, except that a motor home and school bus may not exceed a length of forty-five feet, exclusive of front and rear bumpers.
- (c) Except as hereinafter provided in this subsection or in subsection (d) of this section, a combination of vehicles coupled together may not consist of more than two units and no combination of vehicles including any load thereon shall have an overall length, inclusive of front and rear bumpers, in excess of fifty-five feet except as provided in West Virginia Code 17C-17-11b, and except as otherwise provided in respect to the use of a pole trailer as authorized in West Virginia Code 17C-17-5. The limitation that a combination of vehicles coupled together may not consist of more than two units may not apply to:
  - 1) A combination of vehicles coupled together by a saddle-mount device used to transport motor vehicles in a drive-away service when no more than three saddle mounts are used, if equipment used in the combination meets the requirements of the safety regulations of the United States Department of Transportation and may not exceed an overall length of more than seventy-five feet; or
  - 2) A combination of vehicles coupled together, one of which is a travel trailer or folding camping trailer having an overall length,

exclusive of front and rear bumpers, not exceeding sixty-five feet.

- 3) A combination of two vehicles coupled together, one of which is a motor home, or a combination of vehicles coupled together, one of which is a travel trailer or folding camping trailer, may not exceed an overall length, exclusive of front and rear bumpers of sixty-five feet.
- 4) Notwithstanding the provisions of subsections (a), (b), (c) and (d) of this section, the Commissioner of Highways may designate, upon his or her own motion or upon the petition of an interested party, a combination vehicle length not to exceed seventy feet.
- 5) The length limitations for truck tractor-semitrailer combinations and truck tractor-semitrailer-trailer combinations operating on the national system of interstate and defense highways and those classes of qualifying federal-aid primary system highways so designated by the United States Secretary of Transportation and those highways providing reasonable access to and from terminals, facilities for food, fuel, repairs and rest and points of loading and unloading for household goods carriers from such highways and further, as to other highways so designated by the West Virginia Commissioner of Highways, shall be as follows: the maximum length of a semitrailer unit operating in a truck tractor-semitrailer combination shall not exceed forty-eight feet in length except where semitrailers have an axle spacing of not more than thirty-seven feet between the rear axle of the truck tractor and the front axle of the semitrailer, such semitrailer shall be allowed to be not more than fifty-three feet in length and the maximum length of any semitrailer or trailer operating in a truck tractor-semitrailer-trailer combination may not exceed twenty-eight feet in length and in no event shall any combinations exceed three units, including the truck tractor: provided, that nothing herein contained shall impose an overall length limitation as to commercial motor vehicles operating in truck tractor-semitrailer or truck tractor-semitrailer-trailer combinations.
- 6) the total outside width, exclusive of safety equipment authorized by the United States Department of Transportation, of any vehicle or the load thereon may not exceed ninety-six inches, except as otherwise provided in West Virginia Code Article 17C-17: provided, that any vehicle

with a total outside width of 102 inches, exclusive of safety equipment authorized by the United States Department of Transportation, may be operated on any street or highway designated by the United States Department of Transportation or the Commissioner of the Department of Highways or on any street or highway having a minimum lane width of ten feet.

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

#### **28.12.4 LOADS DROPPING OR LEAKING.**

- (a) No vehicle or combination of vehicles shall be operated on any street or highway unless such vehicle or combination of vehicles is so constructed or loaded as to prevent any of its load from dropping, sifting, leaking, or otherwise escaping therefrom, except that sand may be dropped for the purpose of securing traction, or water or other substance may be sprinkled on a roadway in cleaning or maintaining such roadway.
- (b) No person shall operate on any street or highway any vehicle or combination of vehicles with any load unless such load and any covering thereon is securely fastened so as to prevent such covering or load from becoming loose, detached or in any manner a hazard to other users of the street or highway.

#### **28.12.5 TOWING REQUIREMENTS.**

- (a) When one vehicle is towing another the drawbar or other connection shall be of sufficient strength to pull all weight towed thereby and such drawbar or other connection shall not exceed fifteen feet from one vehicle to the other except the connection between any two vehicles transporting poles, pipe, machinery or other objects of structural nature which cannot readily be dismembered.
- (b) When one vehicle is towing another and the connection consists of a chain, rope or cable, there shall be displayed upon such connection a white flag or cloth not less than twelve inches square.

#### **28.12.99 Penalties**

If a violator of this Article causes damage to local streets then the City of Weston may recover damages through a civil action brought by the authorities in control of such local street. (WV Code §17C-17-13)

A violator is subject to a fine even though no damage has occurred. Unless otherwise provided in this Section, violators of this section shall be subject to penalties found in



**Article 13**

**Miscellaneous Rules**

28.13.1	Unattended Motor Vehicle
28.13.2	Backing a Vehicle
28.13.3	Driver's View and Control to be Unobstructed by Load or Persons
28.13.4	Passengers In Seat with Operator
28.13.5	Passengers on Running Board
28.13.6	Following Authorized Emergency Vehicles
28.13.7	Approaching Authorized Emergency Vehicles
28.13.8	Driving over Fire Hose
28.13.9	Opening Door of Vehicle on Traffic Side
28.13.10	Boarding or Alighting From Vehicle
28.13.11	Unlawful Riding
28.13.12	Squealing Tires, Cracking Exhaust Noises
28.13.13	Taking, Injuring or Tampering with Vehicle
28.13.14	Driving upon Sidewalk, Street Lawn or Curb
28.13.15	Shortcutting; Avoiding Traffic Control Devices
28.13.16	Coasting Prohibited
28.13.17	Driving Through Safety Zone
28.13.18	Driving Upon Street Posted as Closed for Repair
28.13.19	Obstruction of Traffic
28.13.20	Vehicle Security
28.13.21	Vehicle Regulations on Park Property
28.13.22	Motorized Scooters
28.13.99	Penalty

**28.13.1 UNATTENDED MOTOR VEHICLE.**

No person driving or in charge of a motor vehicle shall permit it to set unattended on public or commercial property 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 side, such as to the curb or side of a street or highway.

**28.13.2 BACKING A VEHICLE.**

- a) The driver of a vehicle shall not back the same unless such movement can be made with reasonable safety and without interfering with other traffic.
- b) Any person violating the provisions of this section is guilty of a misdemeanor and, upon conviction thereof, shall be fined not more than \$100; upon a second

conviction within one year thereafter, shall be fined not more than \$200; and upon a third or subsequent conviction, shall be fined not more than \$500.

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

- (a) No person shall drive a vehicle when it is so loaded as to obstruct the view of the driver to the front or sides of the vehicle or as to interfere with the driver's control over the driving mechanism of the vehicle.
- (b) No passenger in a vehicle shall ride in such position as to interfere with the driver's view ahead or to the sides, or to interfere with his or her control over the driving mechanism of the vehicle.
- (c) Any person violating the provisions of this section is guilty of a misdemeanor and, upon conviction thereof, shall be fined not more than \$100; upon a second conviction within one year thereafter, shall be fined not more than \$200; and upon a third or subsequent conviction, shall be fined not more than \$500.

**28.13.4 PASSENGERS IN SEAT WITH OPERATOR.**

- 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 such motor vehicle is being operated on the streets or highways of this Municipality: provided, however, that the limitation of this section shall not apply to a truck cab or truck crew compartment properly designed for the occupancy of four persons including the operator, and so designated on the registration card by the Division of Motor Vehicles.
- b) Any person violating the provisions of this section is guilty of a misdemeanor and, upon conviction thereof, shall be fined not more than \$100; upon a second conviction within one year thereafter, shall be fined not more than \$200; and upon a third or subsequent conviction, shall be fined not more than \$500.

**28.13.5 PASSENGERS ON RUNNING BOARD.**

- a) No passenger shall ride nor shall the operator permit any passenger to ride on the running boards of any motor vehicle while such vehicle is being operated on the streets or highways of this Municipality.
- b) Any person violating the provisions of this section is guilty of a misdemeanor and, upon conviction thereof, shall be fined not more than \$100; upon a second conviction within one year thereafter, shall be fined not more than \$200; and upon a third or subsequent conviction, shall be fined not more than \$500.

**28.13.6 FOLLOWING AUTHORIZED EMERGENCY VEHICLES.**

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

#### **28.13.7 APPROACHING AUTHORIZED EMERGENCY VEHICLES.**

- a) The driver of any vehicle approaching a stationary authorized emergency vehicle, when the authorized emergency vehicle is giving a signal by displaying alternately flashing red, red and white, blue, or red and blue lights or amber or yellow warning lights, shall:
  - 1) Proceed with due caution, yield the right-of-way by making a lane change not adjacent to that of the authorized emergency vehicle, if possible with regard to safety and traffic conditions, if on a highway having at least four lanes with not less than two lanes proceeding in the same direction as the approaching vehicle and reduce speed to a safe level for road conditions; or
  - 2) Proceed with due caution, reduce the speed of the vehicle, maintaining a safe speed not to exceed fifteen miles per hour on any non-divided highway or street and twenty-five miles per hour on any divided highway depending on road conditions, if changing lanes would be impossible or unsafe.
- b) Any person violating the provisions of 28.13.7 in a manner outlined in West Virginia Code §17C-14-9A, or its amendments, shall be subject to the penalties outlined in said State Code provision, or its amendments.

#### **28.13.8 DRIVING OVER FIRE HOSE.**

- a) No vehicle shall be driven over any unprotected hose of the Fire Department when laid down on any street or private driveway to be used at any fire or alarm of fire, without the consent of the Fire Department official in command.
- (b) Any person violating the provisions of this section is guilty of a misdemeanor and, upon conviction thereof, shall be fined not more than \$100; upon a second conviction within one year thereafter, shall be fined not more than \$200; and upon a third or subsequent conviction, shall be fined not more than \$500.

#### **28.13.9 OPENING DOOR OF VEHICLE ON TRAFFIC SIDE.**

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

**28.13.10 BOARDING OR ALIGHTING FROM VEHICLE.**

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

**28.13.11 UNLAWFUL RIDING.**

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

**28.13.12 SQUEALING TIRES, CRACKING EXHAUST NOISES.**

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

**28.13.13 TAKING, INJURING OR TAMPERING WITH VEHICLE.**

- (a) No person shall drive a vehicle that is not his own, without consent of the owner thereof, and with intent temporarily to deprive such owner of his possession of such vehicle, but without intent to steal the vehicle. The consent of the owner of a vehicle to its taking or driving shall not in any case be presumed or implied because of such owner's consent on a previous occasion to the taking or driving of such vehicle by the same or a different person. Any person who assists in, or is a party or accessory to or an accomplice in any such unauthorized taking or driving, shall also be guilty of a violation of this section. (WV Code 17A-8-4)
- (b) No person either individually or in association with one or more persons shall willfully injure or tamper with any vehicle or break or remove any part or parts of or from a vehicle without the consent, of the owner.
- (c) No person with intent to commit any malicious mischief, injury or other crime shall climb into or upon a vehicle whether it is in motion or at rest or with like intent attempt to manipulate any of the levers, starting mechanism, brakes or other mechanism or device of a vehicle while the same is at rest and unattended or with like intent set in motion any vehicle while the same is at rest and unattended.
- (d) Any person, either individually or in association with one or more persons, who shall willfully injure or damage any item of special mobile equipment or break or

remove any parts from an item of special mobile equipment, without the consent of the owner, which injury, damage, or breakage or removal of parts shall be of an amount of \$1,000 or more, is guilty of a felony. If the injury, damage, or breakage or removal of parts shall be of an amount which is less than \$1,000, such person is guilty of a misdemeanor.

**28.13.14 DRIVING UPON SIDEWALK, STREET LAWN OR CURB.**

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

**28.13.15 SHORTCUTTING; AVOIDING TRAFFIC CONTROL DEVICES.**

- (a) No driver shall leave the roadway and enter upon a public or private lot, street or any other property to avoid a traffic control device.
- (b) Any person who violates any of the provisions of this section shall be guilty of a misdemeanor, and, upon conviction thereof, shall be fined not less than fifty dollars (\$50.00) nor more than one hundred dollars (\$100.00).

**28.13.16 COASTING PROHIBITED.**

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

**28.13.17 DRIVING THROUGH SAFETY ZONE.**

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

**28.13.18 DRIVING UPON STREET POSTED AS CLOSED FOR REPAIR.**

No person shall drive upon, along or across a street or highway, or any part thereof, which has been closed in the process of its construction, reconstruction or repair, when posted with appropriate signs by the authority having jurisdiction to close such street or highway, except where "local traffic only signs," or the like, permit vehicle travel.

**28.13.19 OBSTRUCTION OF TRAFFIC.**

No person shall operate, stop, stand or park any motor vehicle on any street or alley within the Municipality so as to obstruct or hinder the free flow of motor

vehicle traffic except in compliance with a lawful order of a police officer or in compliance with a traffic control sign, signal or marking.

**28.13.20 VEHICLE SECURITY.**

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

**28.13.21 VEHICLE REGULATIONS ON PARK PROPERTY.**

- (a) As used in this section, “Board” means a Board authorized by the Weston City Council the City to manage park property, and “vehicle” means any automobile, motorcycle, bicycle or any other form of mechanical transportation.
- (b) No person shall drive or propel or cause to be driven or propelled along or over any roadway or other property under the supervision of the Board at a greater rate of speed than fifteen miles per hour unless another speed limit is posted.
- (c) No vehicle shall be parked or stopped on any roadway or on any other property within park areas under the supervision of the Board, except as designated parking areas. No vehicle shall be parked or stopped on unpaved areas within the park areas or on areas of the roadway designated for travel of vehicles or on paved areas not designated for parking, except on occasion when such area is specifically designated as a parking or driving area, whichever applies, by the Board or the City.

**28.13.22 MOTORIZED SCOOTERS**

- (a) Definitions: “Motorized Scooters” means a scooter that is powered by a gasoline or electric motor or other mode of non-human propulsion-mechanized power.
- (b) Prohibited Acts: Exemptions.
  - 1) The riding, operation, or other use of motorized scooters for transportation or recreational purposes, within or upon the streets, alleys, sidewalks, parking lots, and other property owned, leased, or controlled by the City of Weston and any of its boards, authorities, or commissions is prohibited, unless the person using such motorized scooter has a valid drivers’ license under the provisions of the West Virginia Code.

- 2) It shall not be an offense for a motorized scooter to be operated upon a designated parade route, when such person is a duly registered and recognized participant in any properly permitted parade, provided that such operation occurs in conjunction with said parade.
  - 3) The Federal Government, the State of West Virginia, and the City of Weston are exempt from the provisions of this article.
  - 4) The provisions of this section do not apply to an Electric Personal Assistive Mobility Device as defined in 28.1.9 of this Chapter and as operated by a mobility impaired person as defined in 28.1.9 of the this Chapter.
  - 5) Any licensed driver permitted to operate a motorized scooter shall comply with the required safety equipment set forth in applicable provisions of this Chapter, or its amendments, and applicable provisions of the West Virginia Code, and any amendments.
- (c) Penalty for 28.13.22: Any person convicted of a first offense shall be guilty of a misdemeanor and, if convicted thereof, shall be fined not less than twenty-five dollars (\$25.00) nor more than one hundred dollars (\$100.00). Any person convicted of a second or further offense shall be fined not less than fifty dollars (\$50.00) nor more than two hundred fifty dollars (\$250.00). The parent or other guardian of any person violating the provisions of this article when such person shall not have attained the age of eighteen years shall not authorize or knowingly permit any such minor to violate any provision of this article. Any such authorization or if such parent or other guardian shall knowingly permit any such minor to violate the provisions of this article shall constitute a criminal violation and shall subject such parent or guardian to the criminal penalties set forth in this article. The citing and conviction of any parent or guardian shall not prohibit the citing and conviction of the operator of such motorized scooter.

#### **28.13.99 PENALTY.**

- (a) General Article Penalty. Whoever violates any provision of this article for which no other penalty is provided shall be fined not more than one hundred dollars (\$100.00); upon a second conviction within one year thereafter shall be fined not more than two hundred dollars (\$200.00); and upon a third or subsequent conviction, shall be fined not more than five hundred dollars (\$500.00).
- (b) Vehicle Security. Any person violating the provisions of this subsection is guilty of a misdemeanor and, upon conviction thereof, shall be fined not less than \$200 nor more than \$5,000; and upon a second or subsequent conviction, shall be fined not less than \$200 nor more than \$5,000, or confined in the county or regional jail for not less than fifteen days nor more than one year, 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. (WV Code 17D-2A-4

## **Article 14**

### **License, Registration and Inspection**

28.14.1	Registration, Certificate of Title Required
28.14.2	Registration Card
28.14.3	Display of Registration Plates
28.14.4	Operation of Vehicle without Evidence of Registration; Use of Temporary Facsimile
28.14.5	Improper Use of Registration Card, Plate or Permit
28.14.6	Driver or Motorcycle License Required
28.14.7	Persons Exempt from License
28.14.8	License to be Carried and Exhibited on Demand
28.14.9	Certain Acts Prohibited
28.14.10	Driving Under Suspension or Revocation
28.14.11	Owner or Operator Allowing Another to Drive
28.14.12	Certificated of Inspection and Approval (MVI)
28.14.99	Penalty

#### **28.14.1 REGISTRATION, CERTIFICATE OF TITLE REQUIRED.**

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

#### **28.14.2 REGISTRATION CARD.**

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

#### **28.14.3 DISPLAY OF REGISTRATION PLATES.**



- (a) Registration plates issued for vehicles required to be registered shall be attached to the rear thereof except that on truck tractors and road tractors designed and constructed to pull trailers or semi-trailers, the registration plate shall be mounted to the front.
- (b) Every registration plate shall at all times be securely fastened in a horizontal position to the vehicle for which it is issued so as to prevent the plate from swinging and at a height of not less than twelve inches from the ground, measuring from the bottom of such plate, in a place and position to be clearly visible and shall be maintained free from foreign materials and in a condition to be clearly legible.
- (c) Notwithstanding the provisions of subsection (b) of this section, an owner of a motor vehicle with a Class G registration as defined in West Virginia Code 17A-10-1 may choose to:
  - 1) Display a standard, Class G registration plate in a horizontal position; or
  - 2) Display a specially designed Class G registration plate in a vertical position.

#### **28.14.4 OPERATION OF VEHICLE WITHOUT EVIDENCE OF REGISTRATION; USE OF TEMPORARY FACSIMILE.**

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

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

#### **28.14.5 IMPROPER USE OF REGISTRATION CARD, PLATE OR PERMIT.**

No person shall lend to another any certificate of title, registration card, registration plate, special plate or permit issued to him if the person desiring to borrow the same would not be entitled to the use thereof, nor shall any person knowingly permit the use of any of the same by one not entitled thereto, nor shall any person display upon a vehicle any registration card, registration plates or permit not issued for such

vehicle or not otherwise lawfully used thereon under this Traffic Code. Any violation of this section is a misdemeanor.

#### **28.14.6 DRIVER OR MOTORCYCLE LICENSE REQUIRED.**

- (a) No person, except those hereinafter expressly exempted, shall drive any motor vehicle upon a street or highway in this Municipality or upon any subdivision street, as used in West Virginia Code Article 8-24, when the use of such subdivision street is generally used by the public unless the person has a valid driver's license under the provisions of the West Virginia Code for the type or class of vehicle being driven.
- (b) Any person licensed to operate a motor vehicle as provided in the West Virginia Code may exercise the privilege thereby granted as provided in the West Virginia Code and, except as otherwise provided by law, shall not be required to obtain any other license to exercise such privilege by any county, municipality or local board or body having authority to adopt local police regulations.
- (c) No person, except those hereinafter expressly exempted, shall drive any motorcycle upon a street or highway in this Municipality or upon any subdivision street, as used in West Virginia Code Article 8-24 when the use of such subdivision street is generally used by the public unless the person has a valid motorcycle license or a valid license which has been endorsed under West Virginia Code 17B-2-7b for motorcycle operation or has a valid motorcycle instruction permit.

#### **28.14.7 PERSONS EXEMPT FROM LICENSE.**

The following persons are exempt from the license required under Section 28.14.6:

- (a) Any person while operating a motor vehicle in the armed services of the United States while in the performance of his official duties;
- (b) A nonresident who is at least sixteen years of age and who has in his or her immediate possession a valid driver's license issued to the person in the person's home state or country unless the State of West Virginia determines the person's home state or country does not extend the same privileges to a resident of this State, may operate a motor vehicle in this State only as a noncommercial driver for a period not to exceed ninety days in any one calendar year;
- (c) A nonresident who is at least sixteen years of age, who has in the person's immediate possession a valid driver's license issued to the person in the person's home state or country and who is employed in this State, or owns, maintains or operates a place or places of business in this State, or engages in any trade, profession or occupation in this State, in addition to the driving privileges extended under subsection (b) hereof, unless the Commissioner determines the

person's home state or country does not extend the same privileges to a resident of this State, may operate a motor vehicle in this State only as a noncommercial driver in traveling to and from the person's place or places of employment, place or places of business or place or places at which the person engages in the trade, profession or occupation and in the discharge of the duties of the person's employment, business, trade, profession or occupation if the duties are such that, if performed by a resident of the State of West Virginia over the age of eighteen years of age, the resident would not be required under the provisions of West Virginia Code Chapter 17 to obtain a Class A, B, C or D driver's license. However, this subsection shall not exempt any person who is required to obtain a West Virginia driver's license in accordance with the provisions of West Virginia Code 17B-2-1a;

- (d) A nonresident who is at least eighteen years of age and who has in his or her immediate possession a valid commercial driver's license issued to the person in his or her home state or country and which meets the requirements of the federal commercial motor vehicle act of 1986, Title XI of public law 99-570 and unless the Commissioner determines the person's home state or country does not extend the same privilege to a resident of this State may operate a motor vehicle in this State either as a commercial driver subject to the age limits applicable to commercial driver in this State, or as a noncommercial driver subject to the limitations imposed on nonresident drivers in subsections (b) and (c) hereof;
- (e) Any person who is a student, properly enrolled and registered in an accredited school, college or university in this State, who is at least sixteen years of age and who has in his or her immediate possession a valid driver's license issued to the person in the person's home state, notwithstanding the limitations of subsections (b) and (c) hereof may operate motor vehicle in this State only as noncommercial driver: provided, that the state of which the person is a resident shall extend the same privileges to residents of this State. This exemption shall be canceled immediately when the student is graduated from school, college or university or is expelled or ceases to be a student. (WV Code 17B-2-2)

#### **28.14.8 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 magistrate, municipal judge, circuit court judge, peace officer, police officer, or an employee of the Division of Motor Vehicles. 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 such person and valid at the time of such person's arrest.
- (b) Any person violating the provisions of this section is guilty of a violation of 28.14.8 of this Chapter and, upon conviction thereof, shall be fined not

more than, five hundred dollars (\$500.00): 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 office a driver's license issued to such person and valid at the time of such person's violation.

**28.14.9 CERTAIN ACTS PROHIBITED.**

- a) No person shall commit any one of the following acts:
  - 1) Display or cause or permit to be displayed or have in his possession any fictitious or fraudulently altered driver's or commercial driver's license or nonoperator's identification;
  - 2) Lend his driver's or commercial driver's license or nonoperator's identification to any other person or knowingly permit the use thereof by another;
  - 3) Display or represent as one's own any driver's or commercial driver's license or nonoperator's identification not issued to him;
  - 4) Use a false or fictitious name in any application for a driver's or commercial driver's license or nonoperator's identification or knowingly make a false statement or knowingly conceal a material fact or otherwise commit a fraud in any such application;
  - 5) Permit any unlawful use of a driver's or commercial driver's license or nonoperator's identification issued to him; or
  - 6) Do any act forbidden or fail to perform any act required by this Traffic Code or West Virginia Code Chapter 17.

**28.14.10 DRIVING UNDER SUSPENSION OR REVOCATION.**

- a) No person shall drive a motor vehicle on any public street or highway of this Municipality at a time when his privilege so to do has been lawfully suspended or revoked. (WV Code 17B-4-3)
- b) Any person who drives a motor vehicle on any public street or highway of or in the City of Weston at a time when his or her privilege to do so has been lawfully suspended or revoked by the State of West Virginia or any other jurisdiction is, for the first offense, guilty of a misdemeanor and, upon conviction thereof, shall be fined not less than \$100 nor more than \$500; for the second offense, the person is guilty of a misdemeanor and, upon conviction thereof, shall be fined not less than \$100 nor more than \$500; for the third or any subsequent offense, the person is guilty of a misdemeanor and, upon conviction thereof, shall be confined in jail for a period of not less than thirty days nor more than ninety days and shall be fined not less than \$150 nor more than \$500.

**28.14.11 OWNER OR OPERATOR ALLOWING ANOTHER TO DRIVE.**

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

**28.14.12 CERTIFICATE OF INSPECTION AND APPROVAL.**

It is a misdemeanor for any owner or operator, or both owner and operator, of any vehicle required to be inspected under West Virginia Code §17C-16-4(a), or its amendments, to operate or permit to be operated such vehicle without having displayed thereon a current and valid certificate of inspection and approval or fail to produce same upon demand of any authorized person as designated under said subsection: Provided, That a dealer licensed to sell new vehicles under the provision of West Virginia Code §17A-6 r its amendments, shall not be required to display a certificate of inspection and approval upon any new vehicle if the vehicle is driven for an operational purpose including all activities associated with dealer preparation for sale of a motor vehicle belonging to such dealer when such vehicle has not been titled or delivered to a purchaser, and when such car is not to be used in the demonstrator fleet or otherwise routinely driven on the highways or roads of this state.

Unless another penalty is by the laws of this state provided, 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 an authorized person shall be punished by a fine of not more than \$100: 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 the issuance of a citation.

**28.14.99 PENALTY**

- a) General Article Penalty. Unless otherwise provided, whoever violates any provision of this Chapter for which no other penalty is provided shall be fined not more than one hundred dollars (\$100.00); upon a second conviction within one year thereafter shall be fined not more than two hundred dollars (\$200.00); and upon a third or subsequent conviction, shall be fined not more than five hundred dollars (\$500.00).

**Article 15**

- 28.15.1 Compliance with Traffic Regulations.
- 28.15.2 Right of Way in Crosswalk.
- 28.15.3 Crossing Roadway Outside of Crosswalk.
- 28.15.4 Drivers to Exercise Due Care.
- 28.15.5 Moving Upon Right Half of Crosswalk.
- 28.15.6 Walking Along Streets and Highways; Soliciting Rides.
- 28.15.7 Persons Working on Streets and Highways.
- 28.15.8 Protection of Blind Pedestrians.
- 28.15.9 Electric Personal Assistive Mobility Device.
- 28.15.99 Penalty.

### **28.15.1 COMPLIANCE WITH TRAFFIC REGULATIONS.**

Pedestrians shall be subject to traffic control signals at intersections as provided in Section 28.3.4 but at all other places pedestrians shall be accorded the privileges and shall be subject to the restrictions stated in WV Code 17C-10, unless otherwise modified by this Chapter.

### **28.15.2 RIGHT OF WAY IN CROSSWALK.**

- (a) When traffic control signals are not in place or not in operation the driver of a vehicle shall yield the right of way, slowing down or stopping if need be to so yield, to a pedestrian crossing the roadway within a crosswalk when the pedestrian is upon the half of the roadway upon which the vehicle is traveling, or when the pedestrian is approaching so closely from the opposite half of the roadway as to be in danger, but no pedestrian shall suddenly leave a curb or other place of safety and walk or run into the path of a vehicle which is so close that it is impossible for the driver to yield. This provision shall not apply under the conditions stated in Section 28.15.3(b).
- (b) Whenever any vehicle is stopped at a marked crosswalk or at any unmarked crosswalk at an intersection to permit a pedestrian to cross the roadway, the driver of any other vehicle approaching from the rear shall not overtake and pass such stopped vehicle.

### **28.15.3 CROSSING ROADWAY OUTSIDE CROSSWALK.**

- (a) Every pedestrian crossing a roadway at any point other than within a marked crosswalk or within an unmarked crosswalk at an intersection shall yield the right of way to all vehicles upon the roadway.
- (b) Any pedestrian crossing a roadway at a point where a pedestrian tunnel or overhead pedestrian crossing has been provided shall yield the right of way to all vehicles upon the roadway.

- (c) Between adjacent intersections at which traffic control signals are in operation pedestrians shall not cross at any place except in a marked crosswalk.

#### **28.15.4 DRIVERS TO EXERCISE DUE CARE.**

Notwithstanding any other provision of this Article every driver of a vehicle shall exercise due care to avoid colliding with any pedestrian upon any roadway and shall give warning by sounding the horn when necessary and shall exercise proper precaution upon observing any child or any confused or incapacitated person upon a roadway.

#### **28.15.5 MOVING UPON RIGHT HALF OF CROSSWALK.**

Pedestrians shall move, whenever practicable, upon the right half of crosswalks.

#### **28.15.6 WALKING ALONG STREETS AND HIGHWAYS; SOLICITING RIDES.**

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

#### **28.15.7 PERSONS WORKING ON STREETS AND HIGHWAYS.**

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

#### **28.15.8 PROTECTION OF BLIND PEDESTRIANS.**

The driver of a vehicle approaching a blind pedestrian who knows, or in the exercise of reasonable care should know, that such pedestrian is blind because such pedestrian is carrying a cane predominantly white or metallic in color with or without a red tip, or is using a guide dog or otherwise, or should have any other reason to know the pedestrian is blind shall exercise care commensurate with the situation to avoid injuring such pedestrian.

#### **28.15.9 ELECTRIC PERSONAL ASSISTIVE MOBILITY DEVICE.**

- (a) For purposes of this section, the definition of an “electric personal assistive mobility device” is the same definition as previously set forth in Section 28.1.9 and “operator” shall refer to the operator of an electric personal assistive mobility device.
- (b) An electric personal assistive mobility device shall be equipped with: Front, rear and side reflectors, a braking system that enables the operator to bring the device to a controlled stop; and If operated at any time from one-half hour after sunset to one-half hour before sunrise, a lamp that emits a white light that sufficiently illuminates the area in front of the device.
- (c) An operator of an electric personal assistive mobility device traveling on a sidewalk, roadway or bicycle path shall have the rights and duties of a pedestrian and shall exercise due care to avoid colliding with pedestrians. An operator shall yield the right of way to pedestrians.
- (d) Except as provided in this section, no other provisions of the motor vehicle code shall apply to electric personal assistive mobility devices.

**28.15.99 PENALTY.**

- a) Unless otherwise provided, whoever violates any provision of this Article shall be fined not more than one hundred dollars (\$100.00); upon a second conviction conviction shall be fined not more than two hundred dollars (\$200.00); and upon a third or subsequent shall be fined not more than five hundred dollars (\$500.00).
- b) An operator who violates a provision of Section 28.15.9 shall receive a warning for the first offense. For a second or subsequent offense, the operator shall be punished by a fine of not less than ten dollars (\$10.00) and not greater than one hundred dollars (\$100.00). (WV Code 17C-10A-2)

**Article 16  
Bicycles**

- 28.16.1 Compliance, Code Application to Bicycles
- 28.16.2 Obedience to Traffic Rules; Exceptions
- 28.16.3 Riding Upon Seats; Number of Persons
- 28.16.4 Attaching Bicycle or Sled to Vehicle
- 28.16.5 Riding on Roadways and Bicycle Paths
- 28.16.6 Carrying Articles
- 28.16.7 Lights and Reflector on Bicycle; Signal Device; Brakes
- 28.16.8 Reckless Operation; Control, Course and Speed
- 28.16.9 Parental Duties
- 28.16.10 Riding on Sidewalk Prohibited



- 28.16.11 Bicycle Helmets for Children
- 28.16.99 Penalty

**28.16.1 COMPLIANCE; CODE APPLICATION TO BICYCLES.**

It is a misdemeanor for any person to any act forbidden or fail to perform any act required in this Article.

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 Chapter.

These regulations applicable to bicycles shall apply whenever a bicycle is operated upon any street or highway or upon any path set aside for the exclusive use of bicycles subject to those exceptions stated herein.

**28.16.2 TRAFFIC LAWS APPLY TO PERSONS RIDING BICYCLES**

Every person riding a bicycle upon a roadway shall be granted all of the rights and shall be subject to all of the duties applicable to the driver of a vehicle by this Chapter, except as to special regulations in this Article and except as to those provisions of this Chapter which by their nature can have no application. (WV Code 17C-11-2)

**28.16.3 RIDING UPON SEATS; NUMBER OF PERSONS.**

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

**28.16.4 ATTACHING BICYCLE OR SLED TO VEHICLE.**

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

**28.16.5 RIDING ON ROADWAYS AND BICYCLE PATHS.**

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

**28.16.6 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.

**28.16.7 LIGHTS AND REFLECTOR ON BICYCLE; SIGNAL DEVICE; BRAKES.**

- (a) Every bicycle when in use used 30 minutes after sunset and 30 minutes before sunrise shall be equipped with a lamp on the front which shall emit a white light visible from a distance of at least 500 feet to the front and with a red reflector on the rear of a type approved by the Department of Motor Vehicles which shall be visible from all distances from fifty feet to 300 feet to the rear when directly in front of lawful upper beams of head lamps on a motor vehicle. A lamp emitting a red light visible from a distance of 500 feet to the rear may be used in addition to the red reflector.
- (b) No person shall operate a bicycle unless it is equipped with a bell or other device capable of giving a signal audible for a distance of at least 100 feet, except that a bicycle shall not be equipped with nor shall any person use upon a bicycle any siren or whistle.
- (c) Every bicycle shall be equipped with a brake which will enable the operator to make the braked wheels skid on dry, level, clean pavement. (WV Code 17C-11-7)

**28.16.8 RECKLESS OPERATION; CONTROL, COURSE AND SPEED.**

- a) No person shall operate a bicycle:
  - 1) Without due regard for the safety and rights of pedestrians and drivers and occupants of all other vehicles, and so as to endanger the life, limb or property of any person while in the lawful use of the streets or sidewalks or any other public or private property;
  - 2) Without exercising reasonable and ordinary control over such bicycle;
  - 3) In a weaving or zigzag course unless such irregular course is necessary for safe operation in compliance with law;
  - 4) Without both hands upon the handle grips except when necessary to give the required hand and arm signals, or as provided in Section 28.16.6;
  - 5) At a speed greater than is reasonable and prudent under the conditions then existing.

**28.16.9 PARENTAL DUTIES.**

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.

**28.16.10 RIDING ON SIDEWALK PROHIBITED.**

Riders of bicycles may operate said bicycles on the sidewalks of the City. However, it shall be unlawful for any person to operate a bicycle upon the sidewalks of the City carelessly, heedlessly, or in a willful and wanton disregard for the rights or safety of others, or without due caution and circumspection, or in a manner as to endanger, or be likely to endanger, any person or property, or so as to interfere with the normal movement of vehicular or pedestrian traffic. Riding of bicycles shall be prohibited on sidewalks that the City Council may deem prohibited for bicycle riding.

Anyone operating a bicycle in a manner which causes injury to another person shall be subject to a fine of \$50 for first offense; \$100 for second offense; \$200 for third or subsequent offenses.

This section is not intended to supplant the Weston City ordinance, effective July 1, 1994, which restricts bicycle riding on the sidewalks of the business area of Weston.

**28.16.11 BICYCLE HELMETS FOR CHILDREN.**

(a) Definitions. As used in this section:

“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.

“Tricycle” means a three-wheeled human-powered vehicle designed for use as a toy by a single child under the age of six years, the seat of which is no more than two feet from ground level.

“Public roadway” means a right of way under the jurisdiction and control of this State or the Municipality for use primarily by motor vehicles.

“Public bicycle path” means a right of way under the jurisdiction and control of this State or the Municipality for use primarily by bicycles and pedestrians.

“Other public right-of-way” means any right of way other than a public roadway or public bicycle path that is under the jurisdiction and control of this State or the Municipality and is designed for use and used by vehicular or pedestrian traffic.

“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.

“Passenger” means any person who travels on a bicycle in any manner except as an operator.

“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.

(b) Requirements for Helmet Use.

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.

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

(c) Sale of Bicycle Helmets. Any helmet sold or offered for sale for use by operators and passengers of bicycles shall be conspicuously labeled in accordance with the standard described in subsection (a) hereof, which shall constitute the manufacturer's certification that the helmet conforms to the applicable safety standards.

(d) Civil Actions. A violation of subsection (b) hereof is not admissible as evidence of negligence or contributory negligence or comparative negligence in any civil action or proceeding for damages, and shall not be admissible in mitigation of damages.

**28.16.99 PENALTY.**

Notwithstanding the provisions of Section 28.2.99, any parent or legal guardian violating any requirement set forth in Section 28.16.2(b) shall be fined ten dollars (\$10.00) or be required to perform two hours in community service to a child injury prevention program which includes injury prevention education or both fined and required to perform such community service. Notwithstanding the provisions of West Virginia Code 8-11-1, no court costs may be assessed to any person violating the requirements of Section 28.16.2(b).

In the case of a first violation of Section 28.16.2(b), the court may waive

the fine upon receipt of satisfactory proof that the person has a helmet or within a reasonable time from the date of the violation, purchased or otherwise obtained, a protective bicycle helmet.

It is an absolute defense to a charge for a violation of 28.16.12 that a parent or legal guardian is unable to pay for the protective bicycle helmet. Inability to pay may be demonstrated by the filing of a financial affidavit in accordance with the provisions of West Virginia Code 59-2-1(c), or other relevant West Virginia Code sections. 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. (WV Code 17C-11A-7)

## **Article 17**

### **ATVs**

#### **28.17.1. Acts prohibited by operator; penalties for violations.**

(a) No all-terrain vehicle may be operated in this state:

(1) On any interstate highway except by public safety personnel responding to emergencies;

(2) On any road or highway with a center line or more than two lanes except for the purpose of crossing the road, street or highway, if:

(A) The crossing is made at an angle of approximately ninety degrees to the direction of the highway and at a place where no obstruction prevents a quick and safe crossing;

(B) The vehicle is brought to a complete stop before crossing the shoulder or main traveled way of the highway;

(C) The operator yields his or her right-of-way to all oncoming traffic that constitutes an immediate potential hazard; and

(D) Both the headlight and taillight are illuminated when the crossing is made if the vehicle is so equipped;

(3) With more than one passenger unless more passengers are allowed under manufacturers' recommendations;

(4) With a passenger under the age of eighteen, unless the operator has at a minimum a level two intermediate driver's license or its equivalent or is eighteen years of age or older;

(5) Unless riders under the age of eighteen are wearing size appropriate protective helmets that meet the current performance specifications established by the American National Standards Institute standard, z 90.1, the United States Department of Transportation federal motor vehicle safety standard no. 218 or Snell safety standards for protective headgear for vehicle users;

(6) Anytime from sunset to sunrise without an illuminated headlight or lights and taillights;

(7) Without a manufacturer-installed or equivalent spark arrester and a manufacturer-installed or equivalent muffler in proper working order and properly connected to the vehicle's exhaust system; or

(8) Unless operating in compliance with the provisions of section two of this article.

(b) An all-terrain vehicle may be operated upon the shoulder, or as far to the right on the pavement as possible when there is not enough shoulder to safely operate, on any road, street or highway referred to in subdivision (2), subsection (a) of this section other than an interstate highway for a distance not to exceed ten miles to travel between a residence or lodging and off-road trails, fields and areas of operation, including stops for food, fuel, supplies and restrooms, if:

(1) The vehicle is operated at speeds of twenty-five miles per hour or less; and

(2) The vehicle is operated at any time from sunset to sunrise the all-terrain vehicle must be equipped with headlights and taillights which must be illuminated.

(c) Operation of an all-terrain vehicle in accordance with subsection (b) shall not constitute operation of a motor vehicle on a road or highway of this state as contemplated by the provisions of section seven of this article.

(d) Notwithstanding any provision of this chapter to the contrary, a municipality, county or other political subdivision of the state may authorize the operation of all-terrain vehicles on certain specified roads, streets or highways which are marked with centerline pavement markings, other than interstate highways, to allow participation in parades, exhibitions and other special events, in emergencies or for specified purposes.

### **28.17.2 Safety awareness courses.**

(a) No person under the age of eighteen may operate an all-terrain vehicle without a certificate of completion of a vehicle rider safety awareness course as offered or approved by the commissioner of motor vehicles as identified in West Virginia Code §17F-1-2.

(b) The provisions of subsection (a) of this section do not apply to the operation of an all-terrain vehicle on any private or public recreational trail or area or affiliated trail or area operated by a person or entity which has in place a safety program.

(c) No state institution of higher education, which operates, owns, trains or promotes an all-terrain vehicle rider safety awareness course approved by the commissioner, pursuant to this section, is liable for personal injuries to, or for the death of, a rider that may occur during an approved all-terrain vehicle rider safety awareness course, unless an employee or agent of the state institution of higher education's acts or omissions are with malicious purpose, in bad faith, or undertaken in a wanton or reckless manner.

### **28.17.3 Local government authority to regulate.**

Notwithstanding any provision of this article to the contrary:

The governing body of a municipality may regulate in any manner or prohibit, by lawfully enacted ordinance, the operation of all-terrain vehicles upon any street, road or avenue within the municipal corporate limits.

### **28.17.4 All-terrain vehicle rental dealers required to provide safety equipment.**

Any person or entity renting or leasing all-terrain vehicles for recreational purposes must provide protective helmets as defined by the provisions of 28.17.1(a)(5) of this Chapter to all persons using such vehicles who are under the age of eighteen and offer protective helmets to all persons eighteen and older using the rented or leased vehicles: Provided, That for the provisions of this section to be applicable, the age and identity of the users of the all-terrain vehicle must be disclosed to the person or entity providing the rented or leased vehicle.

### **28.17.5 Private property exemption.**

Except as provided by the provisions of 28.17.1(a)(3) thru (5) of this Chapter, and except as provided by the provisions of 28.17.2 of this Chapter, the provisions of this article do not apply if the all-terrain vehicle is operated exclusively on lands owned or leased by the vehicle owner or on private lands of others with the owner's permission.

### **28.17.6 Exemption for farm, commercial use; current regulations.**

Except as provided by the provisions 28.17.1(a)(4) and (5), nothing in this article may be construed to preclude or limit the use or operation of all-terrain vehicles for lawful nonrecreational commercial purposes, including, but not limited to, farm use, oil and gas operations, timbering, surveying and public utilities access.

### **28.17.7 Applicability of rules of operation.**

(a) Every person operating an all-terrain vehicle upon a public road or highway of this Municipality shall be subject to all of the duties applicable to the driver of a vehicle by the provisions of Chapter 28, herein, and Chapter 17C of the West Virginia Code except where inconsistent with the provisions of this article and except as to those provisions of Chapter 17C of the West Virginia Code which by their nature can have no application.

(b) Notwithstanding the provisions of subsection (a) of this section, a motor vehicle operator's license is not required of an operator of an all-terrain vehicle when he or she is operating said vehicle in conformity with the provisions of 28.17.1(a)(2) and 28.17.1(b)(2) of this Chapter except when the operator is under the age of eighteen and is transporting a passenger under the age of eighteen.

### **28.17.8 Criminal penalties.**

(a) Except as provided in the provisions of subsection (b) of this section and in addition to any other legal remedy for violation of civil or criminal provisions of this code, any person who violates the provisions of this Article or who owns or has control over an all-terrain vehicle and knowingly permits it to be used in violation of the provisions of this article is guilty of a misdemeanor and, upon conviction thereof, shall be fined not more than \$100.

(b) Any parent, legal guardian or person who has actual responsibility for a child under eighteen years of age who knows or should have known the child is operating or is a passenger on an all-terrain vehicle without a helmet as required by the provisions of this Article is guilty of a misdemeanor and, shall, upon conviction, be subject to the following penalties:

(1) For a first offense, a fine of not less than \$50 nor more than \$100 or not more than ten hours of community service, or both;

(2) For a second offense, a fine of not less than \$100 nor more than \$200 or not more than twenty hours of community service, or both;

(3) For a third or subsequent offense, a fine of not less than \$200 nor more than \$500 or not more than one hundred hours of community service, or both.

### **28.17.9 Definition of all-terrain and utility terrain vehicle.**

(a) As used in this Article:

(1) "All-terrain vehicle" or "ATV" means any motor vehicle designed for off-highway use and designed to travel on not less than three low-pressure tires, having a seat or saddle designed to be straddled by the operator and handlebars for steering control and intended by the manufacturer to be used by a single operator or by an operator and no more than one passenger.



(2) "Utility-terrain vehicle" means any motor vehicle with four or more low-pressure tires designed for off-highway use having bench or bucket seating for each occupant and a steering wheel for control.

(3) "Motorcycle" means any motor vehicle manufactured with no more than two wheels and having a seat or a saddle for the use of the operator.

(4) "Off-highway vehicle" means a vehicle intended for off-highway use and includes all-terrain vehicles, utility-terrain vehicles, motorcycles and off-road vehicles;

(5) "Off-road vehicle" means a vehicle that is suitable for off-road use. It includes a four-wheel drive vehicle such as a Jeep, pickup or sport utility vehicle. It also includes a specially designed, modified or customized off-road vehicle that is of a similar size to a vehicle manufactured for highway use.

(b) As used in this article, "all-terrain vehicle" and "vehicle", or the plural, mean all-terrain vehicles, utility-terrain vehicles, motorcycles and off-highway vehicles.

## **ARTICLE 18**

### **STOPPING, STANDING AND PARKING.**

- 28.18.1 Stopping, Standing, or Parking Outside of Business or Residence Districts; penalty
- 28.18.2 Officers Authorizes to Remove Illegally Stopped Vehicles
- 28.18.3 Stopping, Standing, or Parking Prohibited in Specific Places; Penalty
- 28.18.4 Right and Left Parallel Parking; Angle Parking; Highway Signs Restricting Parking, etc.; Penalty
- 28.18.5 Removal of Vehicles Parked, etc., on Highways in Emergencies; Liability for Costs of Removal and Storage; Liens for Towing and Storage
- 28.18.6 Signs on Workers' and Church Buses; When Lawful for Such Buses to Stop on Highways and Streets
- 28.18.7 General Penalties
- 28.18.8 Contesting Violations of Chapter 28 Article 18
- 28.18.9 Severance

**28.18.1 Stopping, standing or parking outside of business or residence districts; penalty.**

(a) Upon any highway outside of a business or residence district no person shall stop, park, or leave standing any vehicle, whether attended or unattended, upon the paved or main-traveled part of the highway when it is practicable to stop, park, or so leave such vehicle off such part of said highway, but in every event an unobstructed width of the highway opposite a standing vehicle shall be left for the free passage of other vehicles and a clear view of such stopped vehicles shall be available from a distance of two hundred feet in each direction upon such 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 \$100; upon a second conviction within one year thereafter, shall be fined not more than \$200; and upon a third or subsequent conviction, shall be fined not more than \$500.

(c) This section shall not apply to the driver of any vehicle which is disabled while on the paved or main-traveled portion of a highway in such manner and to such extent that it is impossible to avoid stopping and temporarily leaving such disabled vehicle in such position.

#### **28.18.2 Officers authorized to remove illegally stopped vehicles.**

(a) Whenever any police officer finds a vehicle standing upon a highway in violation of any of the foregoing provisions of this article such officer is hereby authorized to move such vehicle, or require the driver or other person in charge of the vehicle to move the same, to a position off the paved or main-traveled part of such highway.

(b) Whenever any police officer finds a vehicle unattended upon any bridge or causeway or in any tunnel where such vehicle constitutes an obstruction to traffic, such officer is hereby authorized to provide for the removal of such vehicle to the nearest garage or other place of safety.

#### **28.18.3 Stopping, standing or parking prohibited in specified places; penalty.**

(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 at an intersection;

- (8) Within thirty feet upon the approach to any flashing beacon, stop sign or traffic-control signal located at the side of a roadway;
- (9) Between a safety zone and the adjacent curb or within thirty feet of points on the curb immediately opposite the ends of a safety zone, unless a different length is indicated by signs or markings;
- (10) Within fifty feet of the nearest rail of a railroad crossing;
- (11) Within twenty feet of the driveway entrance to any fire station and on the side of a street opposite the entrance to any fire station within seventy-five feet of the entrance (when properly signposted);
- (12) Alongside or opposite any street excavation or obstruction when stopping, standing or parking would obstruct traffic;
- (13) On the roadway side of any vehicle stopped or parked at the edge or curb of a street;
- (14) On any bridge or other elevated structure on a highway or within a highway tunnel;
- (15) At any place where official signs prohibit stopping;
- (16) 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;
- (17) On any controlled-access highway;
- (18) At any place on any highway where the safety and convenience of the traveling public is thereby endangered;
- (19) 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.
- (20) At any place where other markings indicate that parking is prohibited.

(b) No person shall move a vehicle not lawfully under his or her control into any prohibited area or away from a curb such distance as is unlawful.

(c) Any person violating the provisions of this section is guilty of a misdemeanor and, upon conviction thereof, shall be fined not more than \$100; upon a second conviction within one year thereafter, shall be fined not more than \$200; and upon a third or subsequent conviction within one year after first conviction, shall be fined not more than \$500.

**28.18.4 Right and left parallel parking; angle parking; highway signs restricting parking, etc.; penalty.**

(a) Except as otherwise provided in this section, every vehicle stopped or parked upon a roadway where there are adjacent curbs shall be so stopped or parked with the right-hand wheels of such vehicle parallel to and within eighteen inches of the right-hand curb. Any person violating the provisions of this subsection is guilty of a misdemeanor and, upon conviction thereof, shall be fined not more than \$100; upon a second conviction within one year thereafter, shall be fined not more than \$200; and upon a third or subsequent conviction, shall be fined not more than \$500.

(b) Any person violating the provisions of this subsection is guilty of a misdemeanor and, upon conviction thereof, shall be fined not more than \$100; upon a second conviction within one year thereafter, shall be fined not more than \$200; and upon a third or subsequent conviction, shall be fined not more than \$500.

**28.18.5 Removal of vehicles parked, etc., on highways in emergencies; liability for costs of removal and storage; liens for towing and storage.**

Whenever a vehicle has been stopped, parked or left standing upon any part of a highway or constitutes an obstruction to the restoration of traffic flow as the result of an accident or other emergency, any police officer or employee of the City of Weston, duly authorized by the City Council to perform such action, may remove or order the removal of the vehicle, by towing or otherwise, to the nearest available established garage or parking lot for storage until called for by the owner or his or her agent. The owner is liable for the reasonable cost of removal and storage, and until payment of the cost the garage or parking lot operator may retain possession of the vehicle subject to a lien for the amount due. The garage or parking lot operator may enforce his or her lien for towing and storage in the manner provided in West Virginia Code §38-11-14.

**28.18.6 Signs on workers' and church buses; when lawful for such buses to stop on highways and streets.**

Any bus used primarily for the transportation of workers only and any bus operated by a church may bear upon the front and rear thereof a plainly visible sign, either painted or affixed on the body of the bus proper, or attached securely to the bus, containing the words "workers bus" or "church bus," respectively, in letters not less than eight inches in height. Any bus used primarily for the transportation of workers only and any bus operated by a church and bearing signs in that manner may lawfully stop upon the paved portion of any highway or street where there is no loading zone or pull-off adjacent to the highway or street to load or discharge persons: Provided, That such bus shall be equipped with warning lamps permitted under subsection (d), section nineteen, article fifteen of this chapter, and shall use such warning lamps when stopped on the highway or decreasing speed in order to stop, in order to warn the operators of other vehicles of a possible traffic hazard.

### **28.18.7 General Penalties**

If any portion of Chapter 28 Article 18 does not provide a penalty for violating said portion, then the following penalty structure shall be utilized.

A person convicted of violating, or otherwise admitting to violating, relevant portions of Chapter 28 Article 18 shall be guilty of a misdemeanor and subject to the following penalties:

- First Offense: A fine of no more than \$100
- Second Offense: A fine of no more than \$200
- Third Offense: A fine of no more than \$500

An offender shall pay any fines, costs, forfeitures, or penalties to the City of Weston in a manner agreed upon by both parties, but typically the offender shall pay the fine at the City of Weston Municipal Building through the following methods:

- Electronic payments
- Credit card payments
- Debit card payments
- Cash
- Money order
- Certified check
- or through any other method the City Council may deem appropriate

The offender shall be responsible for paying any service charges, or the like, that credit card companies (or other entities related to the payment of an offender's fine, costs, forfeitures, or penalties) impose on the use of their services.

Under all circumstances, the Offender shall submit payment of the fine, costs, forfeitures, or penalties to the appropriate personnel at the City of Weston whether submission be in person or via electronic payments.

### **28.18.8 Contesting Violations of Chapter 28 Article 18**

In the event an alleged violator wishes to contest a violation of Chapter 28 Section 18, the alleged violator may contest said allegation in the Court System that the City of Weston currently uses or may use in the future. If said Court System is not available, then the alleged violator may contest said violation in any other court of competent jurisdiction.

### **28.18.9 Severance**

In the event a portion or portions of Chapter 28 Article 13 are determined to be invalid for any reason, then the rest of Chapter 28 Article 13 shall not be impacted and shall remain in force.

## **Article 19**

### **On-Street Metered Parking**

- 28.19.1 Applicability of Article 19
- 28.19.2 Definitions
- 28.19.3 Establishment of Parking Meter Zones
- 29.19.4 Existing Parking Meter Zones Continued in Operation
- 28.19.5 Days and Hours Meters to be in Operation; Required Compliance by Vehicle Drivers
- 28.19.6 Placement of meters; Meter to Signal Whether Parking Space Lawfully in Use
- 28.19.7 Marking of Parking Spaces; Vehicles to Park Wholly Within Marked Spaces
- 28.19.8 Duty of Driver to Make Deposit
- 29.19.9 Prohibited Acts; Duty of Driver to Deposit Coin in Meter
- 29.19.10 Overtime Parking--Generally
- 29.19.11 Collection of Coins from Parking Meters
- 29.19.12 Disposition of Parking Meter Revenue
- 29.19.15 Penalties for Certain Violations

#### **28.19.1 Applicability of Article 19**

The provisions of this section shall apply to all on-street or curb-line parking regulated by parking meters, and shall not be applicable within or upon off-street parking facilities which are the subject of another Article of this Traffic Code.

#### **28.19.2 Definitions**

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

Parking meter: A mechanical device located upon a public street or sidewalk in a place designated by ordinance as a parking meter zone hereinafter defined, which device shall record a certain number of minutes by the use of a clock mechanism determining the period of time for which parking privileges may be extended to the person depositing a coin of the United States therein.

Parking meter zone. An area designated by ordinance where a vehicle may be temporarily parked and allowed to remain for the period of time indicated on the meter.

### **28.19.3 Establishment of Parking Meter Zones**

Parking meter zones shall be such as may from time to time be established by ordinance.

### **29.19.4 Existing Parking Meter Zones Continued in Operation**

Parking meters heretofore installed, and in place by authority of the Common Council upon the effective date of this Code, shall continue in operation in accordance with the notices and instructions thereon or affixed thereto or posted at the locations thereof.

### **28.19.5 Days and Hours Meters to be in Operation; Required Compliance by Vehicle Drivers**

It shall be unlawful for any person to park any vehicle or to permit a vehicle to remain parked in any parking meter zone for a period longer than designated on such meter, between the hours of 8:00 A. M. and 6:00 P.M. on Monday, Tuesday, Wednesday, and Thursday, and between 8:00 A.M. and 9:00 P.M. on Friday and Saturday, except on Sundays and holidays (the term "holiday" shall include the following days only: The first of January; Memorial Day; the fourth of July; the first Monday in September; the twenty-fifth of December and the day designated and set aside by the President of the United States as a day of Thanksgiving) or to park a vehicle in any zone without paying the fee hereinafter designated; or to permit a vehicle to remain parked longer in any such zone than for the period for which the fee was paid; except on Sundays and holidays.

Enforcement of violations of parking meters will occur during the following times:

- Monday, Tuesday, Wednesday, Thursday, Friday: from 8 am to 4 pm
- Saturday and Sunday: No enforcement
- The City of Weston will not enforce metered parking on the following days:

New Year's Day

Memorial Day

Fourth of July

Labor Day

Christmas Day

Thanksgiving Day

Any other days that the United States Government offices are closed

### **28.19.6 Placement of meters; Meter to Signal Whether Parking Space Lawfully in Use**

Parking meters shall be installed in the parking meter zones as established and provided for by ordinance and shall be placed upon the curb immediately adjacent to the individual parking places hereinafter described. Each meter shall be placed or set in a manner as to show or display by signal whether or not the parking space adjacent to such meter is legally in use.

### **28.19.7 Marking of Parking Spaces; Vehicles to Park Wholly Within Marked Spaces**

The street commissioner, assisted by and at the direction of the chief of police, shall have markings painted or placed upon the curb of street adjacent to each parking meter for the purpose of designating the parking space and the angle at which vehicles are parked to the curb. Each vehicle parking within any parking meter zone shall park within the line or marking so established. It shall be unlawful to park any vehicle across such line or marking or to park said vehicle in such position that the same shall not be entirely within the area designated by such lines or markings.

### **28.19.8 Duty of Driver to Make Deposit**

(a) Any person desiring to park any vehicle within such parking meter space shall deposit the proper coins to obtain time for parking.

(b) Authorized parking tokens issued by the city may be used in lieu of the coins specified in this section.

### **29.19.9 Prohibited Acts; Duty of Driver to Deposit Coin in Meter**

(a) Unless duly authorized, no person deface, injure, tamper with, open or willfully break, destroy or impair the usefulness of any parking meter installed under the provisions of this Article.

(b) Unless authorized by the Common Council, no person shall use anything other than coins, or other appropriate United States money, or other forms of credit/debit payment using United States money to pay into the parking meter.

### **29.19.10 Overtime Parking--Generally**



It shall be unlawful for any person to permit a vehicle to remain in any metered parking space while such meter is displaying a signal indicating that the parking time limit has expired.

**29.19.11. Same-- Responsibility of Owner**

It shall be unlawful for any person to cause, allow, or permit any vehicle registered in his name to park beyond the period of legal parking time shown on any parking meter, as described in this Article.

**29.19.11 Collection of Coins from Parking Meters**

Parking meter collections shall be made by the City Treasurer (or his representative) and a police officer of the City of Weston. Parking meter collections shall be made during daylight hours at least twice each week (or as often as practical to keep the meters in correct operating order).

**29.19.12 Disposition of Parking Meter Revenue<sup>1</sup>**

Parking meter revenue shall be deposited at least once each week in such bank, and to the credit of such account, as prescribed by ordinance or resolution of the common council.

**29.19.15 Penalties for Certain Violations**

(a) Any person accused of a violation of this Article 19 may settle and compromise a claim against him for such illegal parking by paying to the city the sum of five (5) dollars for the first violation, ten (10) dollars for the second violation if incurred within 24 hours of the First Violation, and fifteen (15) dollars for subsequent violations within twenty-four hours of the First Violation.

(b) Failure to settle and compromise the claim, as above provided in this section, within twenty-four hours by any person accused of a violation of this Article shall, upon conviction thereof, be fined not less than five (5) dollars nor more than one hundred (100) dollars together with the cost of prosecution. In the event an accused fails to

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<sup>1</sup>Article III, (3)C of the parking revenue bond ordinance adopted December 7, 1970 (which is on file in the office of the city clerk), provides:

"C. OFF-STREET PARKING REVENUE FUND: The entire gross revenues derived from the operation of said Off-Street Parking Facilities, and all parts thereof, as well as revenues from on-street meters necessary to meet bond and interest payments, shall be deposited in a special fund in a bank in the City of Weston, which is eligible to receive deposits of municipal funds, which fund is hereby created and designated as "Off-Street Parking Revenue Fund - Water Street and River Avenue Lots." Such fund shall constitute a trust fund for the purposes provided in this Ordinance and shall be kept separate and distinct from all other funds of the City and used only for the purposes and in the manner provided in this Ordinance." The ordinance of December 7, 1970, constitutes a contract between the city and the bondholders that cannot be changed by subsequent ordinance without the consent of the bondholders.

settle and/or compromise the claim, the City of Weston may institute appropriate legal proceedings against the accused.

(c) The penalties in this section, 29.19.15, shall not apply to persons parking a vehicle so as to obstruct the entrance or exit of any place where police or fire department apparatus or other emergency equipment is kept or housed, or so as to block an emergency entrance to a hospital; nor shall this section apply to any person parking a vehicle so as to entirely obstruct traffic on any street or alley, or parking in such a way as to reduce traffic on an arterial street to one way traffic only; or to any person who refuses to remove a vehicle illegally parked at the request of any member of the police department.

First Reading \_\_\_\_\_

Second Reading \_\_\_\_\_

Additional Readings (if occurring) \_\_\_\_\_

Adopted \_\_\_\_\_

Filed \_\_\_\_\_

\_\_\_\_\_  
Mayor

\_\_\_\_\_  
City Clerk