

CHAPTER TEN

MOTOR VEHICLES AND TRAFFIC

ARTICLE ONE

IN GENERAL

10-101. Definitions. The following words and phrases when used in this code shall, for the purpose of this code, have the meanings respectively ascribed to them in this article.

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

(2) "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.

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

(4) "Motor-driven cycle" means every motorcycle, including every motor scooter, with a motor which produces not to exceed five horsepower, and every bicycle with motor attached.

(5) "Authorized emergency vehicle" means vehicles of the fire department, duly chartered rescue squad, police vehicles, and such ambulances and emergency vehicles of municipal departments or public service corporations as are designated or authorized by the Commissioner or the Chief of Police of an incorporated city, and such privately owned ambulances and emergency vehicles as are designated by the Commissioner.

(6) "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.

(7) "Bicycle" means every device propelled by human power upon which any person or persons may ride, having two wheels.

(8) "Truck Tractor" means every motor vehicle designed and used primarily for drawing other vehicles and not so constructed as to carry a load other than a part of the weight of the vehicle and load so drawn.

(9) "Farm tractor" means every motor vehicle designed and used primarily as a farm implement for drawing plows, mowing machines, and other implements of husbandry.

(10) "Road tractor" means every motor vehicle designed and used for drawing other vehicles and not so constructed as to carry any load thereon either independently or any part of the weight of a vehicle or load so drawn.

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

(12) "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.

(13) "Trackless trolley coach" means every motor vehicle which is propelled by electric power obtained from overhead trolley

(14) "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.

(15) "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 another vehicle and so constructed that some part of its weight and that of its load rests upon or is carried by another vehicle.

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

(17) "Pneumatic tire" means every tire in which compressed air is designed to support the load.

(18) "Solid tire" means every tire of rubber or other resilient material which does not depend upon compressed air for the support of the load.

(19) "Metal tire" means every tire the surface of which in contact with the highway is wholly or partly of metal or other hard nonresilient material.

(20) "Railroad" means a carrier of persons or property upon cars, other than streetcars, operated upon stationary rails.

(21) "Railroad train" means a steam engine, electric, diesel, or other motor, with or without cars coupled thereto, operated upon rails, except streetcars.

(22) "Streetcar" means a car other than a railroad train for transporting persons or property and operated upon rails principally within a municipality.

(23) "Explosives" means any chemical compound or mechanical mixture that is commonly used or intended for the purpose of producing an explosion 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.

(24) "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.

(25) "Gross weight" means the weight of a vehicle without load plus the weight of any load thereon.

(26) "Commissioner" means the Commissioner of the Department of Motor Vehicles of the State of West Virginia.

(27) "Department" means the Department of Motor Vehicles of the State of West Virginia acting directly or through its duly authorized officers and agents.

(28) "Person" means every natural person, firm, co-partnership, association, or corporation.

(29) "Pedestrian" means any person afoot.

(30) "Driver" means every person who drives or is in actual physical control of a vehicle.

(31) "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 code.

(32) "Police officer" means every officer authorized to direct or regulate traffic or to make arrests for violations of traffic regulations.

(33) "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 purposes of vehicular travel.

(34) "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. "Private property" means real estate in private ownership without regard to the manner in which it is used.

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

(36) "Sidewalk" means that portion of a street between the curblines, or the lateral lines of a roadway, and the adjacent property lines, intended for the use of pedestrians.

(37) "Laned roadway" means a roadway which is divided into two or more clearly marked lanes for vehicular traffic.

(38) "Through highway" means every highway or portion thereof at the entrances to which vehicular traffic from intersecting highways is required by law to stop before entering or crossing the same and when stop signs are erected as provided in this chapter.

(39) "Intersection" means the area embraced within the prolongation or connection of the lateral curb lines, or, if none, then the lateral boundary lines of the roadways of two highways which join one another at, or approximately at, right angles, or the area within which vehicles traveling upon different highways joining at any other angle may come in conflict.

(40) "Crosswalk" includes: (a) that part of a roadway at an intersection included within the connections of the lateral lines of the sidewalks on opposite sides of the highway measured from the curbs, or, in the absence of curbs, from the edges of the traversable roadway; and (b) any portion of a roadway at an intersection or elsewhere distinctly indicated for pedestrian crossing by lines or other markings on the surface.

(41) "Business district" means the territory contiguous to and including a highway when within any six hundred 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 three hundred feet of frontage on one side or three hundred feet collectively on both sides of the highway.

(42) "Residence district" means the territory contiguous to and including a highway not comprising a business district when the property on such highway for a distance of three

hundred feet or more is in the main improved with residences or residences and buildings in use for business.

(43) "Traffic-control devices" means all signs, signals, markings, and devices not inconsistent with this chapter placed or erected by authority of a public body or official having jurisdiction, for the purpose of regulating, warning, or guiding traffic.

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

(45) "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.

(46) "Traffic" means pedestrians, ridden or herded animals, vehicles, streetcars, and other conveyances either singly or together while using any highway for purposes of travel.

(47) "Right-of-way" means the privilege of the immediate use of the highway.

(48) "Stop" when required, means complete cessation from movement.

(49) "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.

(50) "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.

(51) "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.

(52) "Axle group" means an assemblage of two or more consecutive axles considered together in determining their combined load effect on a bridge or pavement structure. The determination of what constitutes an axle group may include any or all the axles on the vehicle or combination of vehicles.

(53) "Tandem axle" means any two or more consecutive axles whose centers are not more than ninety-six inches apart, and are individually attached to and/or articulated from a common attachment to the vehicle including a connecting mechanism designed to equalize the load between axles.

(54) "Tandem axle weight" means the total weight transmitted to the road by two or more consecutive axles whose centers may be included between parallel transverse planes

spaced not more than ninety-six inches apart, extending the full width of the vehicle.

(55) "Connecting mechanism" means an arrangement of parts interconnecting two or more consecutive axles to the frame of a vehicle in such a manner as to equalize the load between axles.

(56) "Parking space" means an area at the side of a street or roadway which is intended for the standing, stopping of a vehicle.

(57) "Loading zone" means that parking space or spaces which are designated for the temporary standing, stopping of a vehicle while actually engaged in loading or unloading.

(58) "Reserved Parking zone" means that parking space or spaces specifically designated for the use of certain authorized persons but not for the general public.

(59) "No-Parking zone" means that area in which no standing, stopping, or parking of any vehicle is permitted at any time unless under emergency conditions or under the direction of a police officer.

(60) "Parking meter" means a mechanical traffic control device for the purpose of regulating parking, by which a person or persons may insert a designated coin or coins to operate a mechanism which indicates the time period that a vehicle may be legally parked within the designated parking space.

(See West Virginia Code 17A-1-1.)

10-102. Obedience to chapter required; exceptions. (a) The provisions of this chapter applicable to the drivers of vehicles upon the highways shall apply to the drivers of all vehicles owned or operated by the United States, the State of West Virginia, or any county, city, town, district, or any other political subdivision of the state, except as provided in this section and subject to such specific exceptions as are set forth in this code with reference to authorized emergency vehicles.

(b) Unless specifically made applicable, the provisions of this chapter shall not apply to persons, teams, motor vehicles, and other equipment while actually engaged in work upon the surface of a highway but shall apply to such persons and vehicles when traveling to or from such work.

10-103. Required obedience to police officers. It shall be the duty of the Sutton Police Department and its officers to enforce the provisions of this chapter and other laws of the Town of Sutton; and no person shall willfully fail to refuse to comply with any lawful order or direction of any police officer or any officer invested by law with authority to direct, control, or regulate traffic.

10-104. Applicability of chapter to animals. 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 chapter, except those provisions of this chapter which by their very nature can have no application.

10-105. Railroad trains restricted as to blocking streets.
(Section deleted 2023)

10-106. Putting glass, etc. upon highway; required removal thereof. (a) No person shall throw or deposit upon any highway any glass bottle, glass, nails, tacks, wire, cans, or any other substance likely to injure any person, animal, or vehicle upon such highway.

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

(c) Any person removing a wrecked or damaged vehicle from a highway shall remove any glass or other injurious substance dropped upon the highway from such vehicle.

10-107. Duty of driver whose vehicle collides with unattended vehicle. The driver of any vehicle which collides with any vehicle which is unattended shall immediately stop and shall then and there either locate and notify the operator or owner of such vehicle of the name and address of the driver and owner of the vehicle striking the unattended vehicle or shall leave in a conspicuous place in or on the vehicle struck a written notice giving the name and address of the driver and of the owner of the vehicle doing the striking and a statement of the circumstances thereof.

(See West Virginia Code 17C-4-3)

10-108. Unlawful taking of vehicle. Any person who drives a vehicle, not his own, without consent of the owner thereof, and with intent temporarily to deprive said owner of his possession of such vehicle, without intent to steal the same, is guilty of a misdemeanor. 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 is guilty of a misdemeanor.

(See West Virginia Code 17A-8-4)

10-109. Offenses by persons owning or controlling vehicles. It is unlawful for the owner, or any other person, employing or otherwise directing the driver of any vehicle to require or knowingly to permit the operation of such vehicle upon a highway in any manner contrary to law.

(See West Virginia Code 17C-5-2)

10-110. Parties to an offense. Every person who commits, attempts to commit, conspires to commit, or knowingly aids or abets in the commission of, any act declared herein to be a crime, whether individually or in connection with one or more other persons or as a principal, agent, or accessory, shall be guilty of such offense, and every person who falsely, fraudulently, forcibly, or willfully induces, causes, coerces, required, permits, or directs another to violate any provision of this chapter is likewise guilty of such offense.

10-111. Penalties. (a) It is a misdemeanor for any person to violate any of the provisions of this chapter unless such violation is by this chapter or other section of this code declared to be a felony.

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

ARTICLE TWO

TRAFFIC-CONTROL DEVICES

10-201. Obedience to traffic-control devices. (a) The driver of any vehicle and the motorman of any streetcar shall obey the instructions of any official traffic-control device applicable thereto placed in accordance with the provisions of this chapter, unless otherwise directed by a traffic or police officer, subject to the exceptions granted the driver of an authorized emergency vehicle in Chapter 7 of this code.

(b) No provision of this chapter for which signs are required shall be enforced against an alleged violator if at the time and place of the alleged violation an official sign is not in proper position and sufficiently legible to be seen by an ordinarily observant person. Whenever a particular section does not state that signs are required, such section shall be effective even though no signs are erected or in place.
(See West Virginia Code 17C-3-2, 17C-3-4)

10-202. Authority of council to erect or install traffic-control devices. The Common Council of the Town of Sutton shall place and maintain such traffic-control devices upon highways within the corporate limits of the town as they may deem necessary to indicate and to carry out the provisions of this chapter or to regulate, warn, or guide traffic. All such traffic-control devices hereafter erected shall conform to the West Virginia State manual and specifications.
(See West Virginia Code 17C-3-3)

10-203. Traffic-control legend. Whenever traffic is controlled by traffic-control signals exhibiting the words "Go", "Caution", or "Stop", or exhibiting different colored lights successively one at a time, or with arrows, the following colors only shall be used and said 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 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 paragraphs (2) and (3) of this subsection (c). (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 said intersection, except that council may by ordinance prohibit any such right turn against a red or "Stop" signal at any intersection within the corporation, 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 said 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 said intersection, except that council may by ordinance prohibit any such left turn against a red or "Stop" signal at any intersection within the corporation, 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 lawful 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.

(f) The motorman of any streetcar shall obey the above signals as applicable to vehicles.

10-204. Pedestrian walk wait signals. Whenever special pedestrian-control signals exhibiting the words "Walk" or "Wait" or words to such effect 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 crossing on the walk signal shall proceed to a sidewalk or safety island while the wait signal is showing.

10-205. Flashing signals. Whenever an illuminated flashing red or yellow signal is used in a traffic sign or signal it shall require obedience by vehicular traffic as follows:

(1) Flashing red (stop signal) - When a red lens is illuminated with 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.

(2) 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.

10-206. Display of unauthorized devices, signs, etc.; such devices etc., declared nuisance and subject to removal. (a) No person shall place, maintain, or display upon or in view of any highway, road, or street within the corporation 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 upon any highway, road, or street within the corporation any traffic-control device bearing thereon any commercial advertising. This shall not be deemed to prohibit the erection upon private property adjacent to the 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 Common Council is hereby empowered to remove the same or cause it to be removed without notice.

10-207. Interference with official traffic-control devices or railroad signs or signals prohibited. 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.

ARTICLE THREE

OPERATION OF VEHICLES

10-301. Motor vehicle drivers must be licensed by state, with few exceptions. No person shall drive or operate a motor vehicle, as defined in this code, upon any street, alley, or highway of the Town of Sutton unless he has first been duly licensed as required by the laws of the State of West Virginia, which operator's license has not been suspended or revoked by the State of West Virginia, or unless he falls within one of the exceptions provided by said laws of said state.
(See West Virginia Code 17B-2-1)

10-302. Vehicle registration plate and registration required. It is a misdemeanor for any person to drive or move or for an owner knowingly to permit to be driven or moved upon any road, street, alley, or highway of the Town of Sutton any vehicle of a type required to be registered under the laws of the state of West Virginia which is not a 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 by said laws, except as otherwise permitted by the provisions of said laws.
(See West Virginia Code 17A-3-2)

10-303. Display of registration plates. Registration plates issued for vehicles required to be registered hereunder shall be attached to the rear thereof. 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, measured 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.
(See West Virginia Code 17A-3-15)

10-304. Requirements for safety inspection of vehicles and display of inspection certificates. It is a misdemeanor for any owner or operator, or both owner and operator, of any vehicle required to be inspected under the motor vehicle laws of the State of West Virginia to operate or permit to be operated such vehicle in the Town of Sutton 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 laws. Unless another penalty is by this

code 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 one hundred dollars.

(See West Virginia Code 17C-16-4)

10-305. Requirement for display of motor carrier fuel tax identification marker. No person shall operate or cause to be operated within the town any motor carrier subject to the road fuel tax provisions of the West Virginia State Code without first securing from the State Motor Vehicle Commissioner a registration card and an identification marker for each such motor carrier. The registration card shall be carried in the motor carrier for which it was issued at all times when the motor carrier is within the town. Each identification marker for a particular motor carrier shall bear a number, which number shall be the same as that appearing on the registration card for that particular motor carrier. The identification marker shall be displayed on the motor carrier as required by the commissioner.

Upon conviction for failure to obtain, carry and display the registration card and identification marker in or on each motor carrier, the person who operates or causes to be operated said motor carrier shall be fined not less than twenty nor more than one hundred dollars for each offense, and each day of such failure shall constitute a separate offense.

10-306. Vehicles not to be driven without equipment required by state or in unsafe condition. No person shall drive or move on any road, street, or alley of the town any motor vehicle, trailer, semitrailer, or pole trailer, or any combination thereof unless the equipment upon any and every said vehicle is in good working order and adjustment as required by this code and said vehicle is in such safe mechanical condition as not to endanger the driver or other occupant or any person upon any highway.

(See West Virginia Code 17C-16-1)

10-307. Obstruction of driver's view or driving mechanism. (a) No person shall drive a vehicle in the Town of Sutton 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.

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(b) No passenger in a vehicle or street car shall ride in such position as to interfere with the driver's or motorman's view ahead or to the sides, or to interfere with his control over the driving mechanism of the vehicle or streetcar.
(See West Virginia Code 17C-14-4)

10-308. Number of passengers in vehicle limited. 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 said motor vehicle is being operated on the roads, streets, or alleys of this town; 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 Department of Motor Vehicles.
(See West Virginia Code 17C-14-5)

10-309. Operation of vehicles on approach of authorized emergency vehicles. (a) Upon the immediate approach of an authorized emergency vehicle equipped with at least one flashing lighted lamp of a color authorized by this code which is visible under normal atmospheric conditions from a distance of five hundred feet to the front of such vehicle other than a police vehicle when operated as an authorized emergency vehicle, and when the driver is giving audible signal by siren, exhaust whistle, or bell: (1) The driver of every other vehicle shall yield the right-of-way and shall immediately drive to a position parallel to, and as close as possible to, the right-hand edge or curb of the roadway and clear of any intersection, and shall stop and remain in such position until the authorized emergency vehicle has passed, except when otherwise directed by a police officer.

(b) This section shall not operate to relieve the driver of an authorized emergency vehicle from the duty to drive with due regard for the safety of all persons using the highway.
(See West Virginia Code 17C-9-5)

10-310. Signals to indicate intent to turn, slow down, or stop. (a) No person shall turn a vehicle at an intersection 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 one hundred feet traveled by the vehicle before turning.

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

(d) Any stop or turn signal when required herein shall be given either by means of the hand or arm or 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 the said signals must be given by such a lamp or lamps or signal device.

(e) All signals herein required given by hand and arm shall be given from the left side of the vehicle in the following manner and such signals shall indicate as follows: (1) Left turn - Hand and arm extended horizontally; (2) Right turn - Hand and arm extended upward; (3) Stop or decrease speed - Hand and arm extended downward.

(See West Virginia Code 17C-8-9 and 17C-8-10)

10-311. Speed limitations generally; charging violations. (a) No person shall drive a vehicle on a road, street, or alley within the town at a speed greater than is reasonable and prudent under the conditions and having regard to the actual and potential hazards then existing. In every event speed shall be so controlled as may be necessary to avoid colliding with any person, vehicle, or other conveyance on or entering the streets or alleys in compliance with legal requirements and the duty of all persons to use due care.

(b) 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.

(c) In every charge of violation of any speed regulations in this article the complaint, also the summons or notice to appear, shall specify the speed at which the defendant is alleged to have driven, with the exception of an offense charged

under paragraph (a) of this section, also the speed applicable within the district or at the location, and in the event charge shall also be made of violation of any other provision of this chapter, the complaint and the summons or notice to appear shall also specify such other offense alleged to have been committed.

(d) The provision of this section declaring speed limitations shall not be construed to relieve the plaintiff in any civil action from the burden of proving negligence on the part of the defendant as the proximate cause of an accident. (See West Virginia Code 17C-6-1)

10-312. Speed limitations in specific locations. Where no special hazard exists that requires lower speed for compliance with Section 10-311 of this article, the speed of any vehicle not in excess of the limits specified in this section or established as hereinafter authorized shall be lawful, but any speed in excess of the limits specified in this section or established as hereinafter authorized shall be unlawful:

(1) Fifteen miles per hour when passing a school building or school grounds abutting on a road, street, highway during school recess or while children are going to or leaving school during opening or closing hours. Such speed restriction shall not apply to vehicles travelling on a controlled-access highway which is separated from the school or school grounds by a fence or barrier approved by the state road commissioner.

(2) Twenty-five miles per hour in any business or residence district within the corporate limits of the Town of Sutton with the exception of the Thirty Five miles per hour along S. Stonewall St. (Rte. 19/40) from the south corporate limit of the town to the intersection of S. Byrne St. (Authorized pursuant to West Virginia Code 17C-6-3) (Section amended 2022)

10-313. Authority of police to determine speed by means of radar. The speed of a motor vehicle may be proved by evidence obtained by use of any device designed to measure and indicate or record the speed of a moving object by means of microwaves, or any device commonly referred to as "radar", when such evidence is obtained by members of the Sutton Police Department. The evidence so obtained shall be accepted as prima facie evidence of the speed of such vehicle. (See West Virginia Code 17C-6-7)

10-314. Driving on 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 the 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) The provisions of this section shall not be construed to require the operator of a motor vehicle to drive continually in the right-hand lane when there is no traffic to be affected by his movement, except as provided in sub-section 10-318(b) of this article.

(See West Virginia Code 17C-7-1)

10-315. Passing vehicles proceeding in opposite directions.

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

(See West Virginia Code 17C-7-2)

10-316. Overtaking and passing vehicle proceeding in same direction; passing on the left generally. The following rules shall govern the overtaking and passing of vehicle proceeding in the same direction, subject to the limitations, exceptions, and special rules hereinafter stated.

(a) The driver of a vehicle overtaking another vehicle proceeding in the same direction shall 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 vehicle until completely passed by the overtaking vehicle.

(See West Virginia Code 17C-7-3)

10-317. Same - When overtaking on the right is permitted. (a) The driver of a vehicle may overtake and pass upon the right of another vehicle only under the following conditions: (1) When the vehicle overtaken is making or about to make a left turn; (2) Upon a street or highway with unobstructed pavement not occupied by parked vehicles of sufficient width for two or more lines of moving traffic 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.

(See West Virginia Code 17C-7-4)

10-318. Same - Limitations on overtaking or driving to the left of center of roadway. a) No vehicle shall be driven to the left side of the center of the roadway in overtaking and passing another vehicle proceedings in the same direction unless such left side is clearly visible and is free of oncoming traffic for a sufficient distance ahead to permit such overtaking and passing to be completely made without interfering with the safe operation of any vehicle approaching from the opposite direction or any vehicle overtaken. In every event the overtaking vehicle must return to the right-hand side of the roadway before coming within one hundred feet of any vehicle approaching from the opposite direction.

(b) 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 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 one hundred feet of or traversing any intersection or railroad grade crossing; (3) When the view is obstructed upon approaching within one hundred feet of any bridge, viaduct, or tunnel; (4) When traveling upon any portion of the road or highway where the signs or appropriate markings on the pavement indicate that overtaking and passing or driving to the left of the roadway would be especially hazardous and such portion of the road or highway has been declared a No-Passing Zone.

(See West Virginia Code 17C-7-5 ,17C-7-6, and 17C-7-7)

10-319. Driving on roadways laned for traffic. Whenever any roadway has been divided into two or more clearly marked lanes for traffic the following rules in addition to all others consistent herewith shall apply:

(a) A vehicle shall be driven and nearly as practicable entirely within a single lane and shall not be moved from such lane until the driver has first ascertained that such movement can be made with safety.

(b) Upon a roadway which is divided into three lanes a vehicle shall not be driven in the center lane except when overtaking and passing another vehicle where the roadway is clearly visible and such center lane is clear of traffic within a safe distance, or in preparation for a left turn or where such center lane is at the time allocated exclusively to traffic moving in the direction the vehicle is proceeding and is signposted to give notice of such allocation.

(c) Official signs may be erected directing slow-moving traffic to use a designated lane or designating those lanes to be used by traffic moving in a particular direction regardless of the center of the roadway and drivers of vehicles shall obey the directions of every such sign.

(See West Virginia Code 17C-7-9)

10-320. Right-of-way - vehicles approaching or entering intersections generally. (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 highway or street.

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

(c) The right-of-way rules declared in subsections (a) and (b) of this section are modified at through highways and otherwise as hereinafter stated in this article.

(See West Virginia Code 17C-9-1)

10-321. Same - vehicle turning left at intersection. The driver of a vehicle within an intersection intending to turn to the left shall yield the right-of-way to any vehicle approaching from the opposite direction which is within the intersection or so close thereto as to constitute an immediate hazard, but said

driver, having so yielded and having given a signal when and as required by this article, may make such left turn and the drivers of all other vehicles approaching the intersection from said opposite direction shall yield the right-of-way to the vehicle making the left turn.

(See West Virginia Code 17C-9-2)

10-322. Same - vehicle entering through highway or stop or yield intersections. (a) The driver of a vehicle shall stop at the entrance to a through highway and shall yield the right-of-way to other vehicles which have entered the intersection from said through highway or which are approaching so closely on said through highway as to constitute an immediate hazard, but said driver having so yielded may proceed.

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

(c) The driver of a vehicle approaching an intersection where a yield sign is plainly and conspicuously posted shall when necessary yield the right-of-way to other vehicles which have entered the intersection or which are approaching on the intersection highway so closely as to constitute an immediate hazard.

(See West Virginia Code 17C-9-3)

10-323. Stopping before entering street or road from alley or private drive. 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 said roadway.

(See West Virginia Code 17C-12-6)

10-324. Overtaking and passing school bus. The driver of a vehicle on any road or street of the town upon meeting or overtaking from either direction any school bus which has stopped on the street 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 said school bus flashing warning signal lights, and said 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.

(See West Virginia Code 17C-12-7)

10-325. Turning at intersections generally. (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) 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.

(c) If the over-all length of the turning vehicle, including any trailer or load pulled thereby, be such that any turn cannot be made completely within the proper lane, the driver of the turning vehicle may use that portion of the roadway which will permit the vehicle and load to complete said turn, providing that said driver exercise at all times sufficient care and caution to ensure that the turn is made with safety to other vehicles, persons and property.

10-326. Certain turns prohibited. (a) The following turns are prohibited as requested by the W.Va. Dept. of Highways, Feb. 23, 1978:

(1) Right turns out of Twistville Road onto Braxton County Rte. 19/40;

(2) Left turns from Braxton County Rte. 19/40 onto Twistville Road.

(b) It shall be unlawful for the operator of a motor vehicle to make a "U" turn with the vehicle operated by him at any of the intersections of the streets or alleys within said town where the same is so designated by signs posted to the effect that "U" turns are prohibited, or words of like import.

10-327. One-way roadways. The Common Council of the Town of Sutton may designate any road, street, or alley under its jurisdiction for one-way traffic and shall erect appropriate signs giving notice thereof. Upon such road, street, or alley

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designated and signposted for one-way traffic, a vehicle shall be driven only in the direction designated.

ARTICLE FOUR

EQUIPMENT

10-401. Unsafe and improperly equipped vehicles; additional parts and accessories; applicability of article to farm and road equipment. (a) It is a misdemeanor for any person to drive or move or for the owner to cause or knowingly permit to be driven or moved on any street, road, or alley of the town 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 10-402 of this article display two red tail lamp and either multiple-beam or single-beam head lamps meeting the requirements of Section 10-405, 10-420, and 10-422 of this article, respectively.

(See West Virginia Code 17C-15-1; Section amended 1989)

10-402. When lighted lamps are required. (a) Every vehicle upon a road, street, or alley of the town at any time from a half hour after sunset to a half hour before sunrise and at any other time when there is not sufficient light to render clearly discernible persons and vehicles on the road at a distance of five hundred feet ahead shall display lighted lamps and illuminating devices as hereinafter respectively required for different classes of vehicle, subject to exceptions with respect to parked vehicles as hereinafter stated.

(b) For the purposes of this chapter, the terms "lamp", "lamps", "light", and "lights" shall be considered interchangeable and each shall have a common definition with the other.

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(Section amended 1989)

10-403. Visibility distance and mounted height of lamps. (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, said provisions shall apply during the times stated in section 10-402 of this article in respect to a vehicle without load when upon a straight, level, unlighted 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.

(See West Virginia Code 17C-15-3)

10-404. Head lamps on motor vehicles. (a) Every motor vehicle other than a motorcycle or motor driven cycle 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 and every motor-driven cycle 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 motor-cycle and motor-driven cycle, 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-two inches to be measured as set forth in Section 10-403 of this article.

(See West Virginia Code 17C-15-4)

10-405. Tail lamps. (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 two tail lamps mounted on the rear, which, when lighted as hereinbefore required, shall emit a red light plainly visible from a distance of five hundred 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.

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(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 1-403 of this article.

(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.
(See West Virginia Code 17C-15-5; Section amended 1989)

10-406. New motor vehicles to be equipped with reflectors.
(See West Virginia Code 17C-15-9 and 17C-15-11; Section deleted 2023)

10-407. Stop lamps required on new motor vehicles.
(See West Virginia Code 17C-15-18 and 17C-15-28 Section deleted 2023)

10-408. Application of 10-409 through 10-413. Those sections of this article which follow immediately, including Sections 10-409, 410, 411, 412, and 413 of this articles, and relating to clearance and marker lamps, reflectors, and stop lights shall apply as stated in said sections to vehicles of the type therein enumerated, namely passenger buses, trucks, truck tractors, and certain trailers, semitrailers, and pole trailers, respectively, when operated upon any road, street, or alley of the town, and said vehicles shall be equipped as required and all lamp equipment required shall be lighted at the times mentioned in Section 10-402 of this article.
(Section amended 1989)

10-409. Additional lighting and reflector equipment required on certain vehicles. In addition to other equipment required in this article the following vehicles shall be equipped as herein stated under the conditions stated in Section 10-408 of this article:

(a) On every bus or truck, whatever its size, there shall be the following: on the rear, two reflectors, one at each side, and two stop lights, one at each side.

(b) On every bus or truck eighty inches or more in overall width, in addition to the requirements in subsection (a): on the front, two clearance lamps, one at each side; on the rear, two clearance lamps, one at each side; on each side, two

reflectors, one at or near the front and one at or near the rear.

(c) On every truck tractor: on the front, two clearance lamps, one at each side; on the rear, two stop lights, one at each side.

(d) On every trailer or semitrailer having a gross weight in excess of three thousand pounds: on the front, two clearance lamps, one at each side; on each side, two side marker lamps, one at or near the front and one at or near the rear; one each side, two reflectors, one at or near the front and one at or near the rear; on the rear, two clearance lamps, one at each side, also two reflectors, one at each side, and two stop lights, one at each side.

(e) On every pole trailer in excess of three thousand pounds gross weight: on each side, one side marker lamp and one clearance lamp which may be in combination, to show to the front, side, and rear; on the rear of the pole trailer or load, two reflectors, one at each side.

(f) On every trailer, semitrailer, or pole trailer weighing three thousand pounds gross or less: on the rear, two reflectors, one on each side. If any trailer or semitrailer is so loaded or is of such dimensions as to obscure the stop lights on the towing vehicle, then such vehicle shall also be equipped with two stop lights, one at or near each side.

(See West Virginia Code 17C-15-9; Section amended 1989)

10-410. Color of clearance lamps, side marker lamps and reflectors. (a) Front clearance lamps and those marker lamps and reflectors mounted on the front or on the side near the front of a vehicle shall display or reflect an amber color.

(b) Rear clearance lamps and those marker lamps and reflectors mounted on the rear or on the sides near the rear of a vehicle shall display or reflect a red color.

(c) All lighting devices and reflectors mounted on the rear of any vehicle shall display or reflect a red color, except the stop light or other signal device, which shall be red, and except that the light illuminating the license plate, or the light emitted by a back-up light shall be white.

(See West Virginia Code 17C-15-10)

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10-411. Mounting of reflectors, clearance lamps and side marker lamps. (a) Reflectors when required by Section 10-409 of this article shall be mounted at a height not less than twenty-four inches and not higher than sixty inches above the ground on which the vehicle stands, except that if the highest part of the permanent structure of this vehicle is less than twenty-four inches the reflector at such point shall be mounted as high as that part of the permanent structure will permit. The rear reflectors on a pole trailer may be mounted on each side of the bolster or load. Any required red reflector on the rear of a vehicle may be incorporated with the tail lamp, but such reflector shall meet all the other reflector requirements of this article.

(b) Clearance lamps shall be mounted on the permanent structure of the vehicle in such manner as to indicate its extreme width and as near the top thereof as practicable. Clearance lamps and side marker lamps may be mounted in combination provided illumination is given as required herein with reference to both.

(See west Virginia Code 17C-15-11)

10-412. Visibility of reflectors, clearance lamps and marker lamps. (a) Every reflector upon any vehicle referred to in Section 10-409 of this article shall be of such size and characteristics and so maintained as to be readily visible at nighttime from all distances within five hundred feet to fifty feet from the vehicle when directly in front of lawful upper beams of head lights. Reflectors required to be mounted on the sides of the vehicle shall reflect the required color of light to the sides, and those mounted on the rear shall reflect a red color to the rear.

(b) Front and rear clearance lamps shall be capable of being seen and distinguished under normal atmospheric conditions at the times lights are required at a distance of five hundred feet from the side of the vehicle on which mounted.

(See West Virginia Code 17C-15-12.)

10-413. Obstructed lights not required to be lighted. Whenever motor and other vehicles are operated in combination during the time that lights are required, any lamp (except tail lamps) need not be lighted which, by reason of its location on a vehicle of the combination, would be obscured by another vehicle of the combination, but this shall not affect the requirement that lighted clearance lamps be displayed on the front of the foremost vehicle required to have clearance lamps, nor that all

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