

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.

(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 left 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

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.

(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.

(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)

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

lights required on the rear of the rearmost vehicle of any combination shall be lighted.

(See West Virginia Code 17C-15-13)

10-414. Lamp or flag on projecting load. 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 10-402 of this article, a red light or lantern plainly visible from a distance of at least five hundred 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.

(See West Virginia Code 17C-15-14)

10-415. Lamps on parked vehicles. (a) Whenever a vehicle is lawfully parked upon a street within the limits of the town during the hours between a half hour after sunset and a half hour before sunrise and in the event, there is sufficient light to reveal any person or object within a distance of five hundred feet upon such street 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 a half hour after sunset and a half hour before sunrise and there is not sufficient light to reveal any person or object within a distance of five hundred feet upon such roadway, such vehicle so parked or stopped shall be equipped with one or more lamps meeting the following requirements: At least one lamp shall display a white or amber light visible from a distance of five hundred feet to the front of the vehicle, and the same lamp or at least one other lamp shall display a red light visible from a distance of five hundred feet to the rear of the vehicle, and the location of said lamp or lamps shall always be such that at least one lamp or combination of lamps meeting the requirements of this section is installed as near as practicable to the side of the vehicle which is closest to passing traffic. The foregoing provisions shall not apply to a motor-driven cycle.

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

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

10-416. Lamps on animal-drawn and other vehicles and equipment. All vehicles including animal-drawn vehicles and including those referred to in Section 10-401(c) of this article not hereinbefore specifically required to be equipped with lamps, shall at the times specified in Section 10-402 of this article be equipped with at least one lighted lamp or lantern exhibiting a white light visible from a distance of five hundred feet to the front of such vehicle and with a lamp or lantern exhibiting a red light visible from a distance of five hundred feet to the rear.

(See West Virginia Code 17C-15-16)

10-417. Spot lamps and other auxiliary lamps. (a) Spot lamps: Any motor vehicle except a public utility company maintenance vehicle may be equipped with not to exceed 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 one hundred 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 section.

(b) Fog lamps: Any motor vehicle may be equipped with not to exceed 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 to exceed 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 to exceed 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.
(See West Virginia Code 17C-15-17)

10-418. Signal lamps and signal devices. (a) Any motor vehicle may be equipped and when required under this article shall be equipped with the following signal lamps or devices: (1) Two lamps on the rear which shall emit a red 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 one hundred feet to the rear both during normal sunlight and at nighttime and a signal lamp or lamps indicating intention to turn shall be visible and understandable during daytime and nighttime from a distance of one hundred 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 10-402 of this article.
(See west Virginia Code 17C-15-18)

10-419. Additional lighting equipment. (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) Any motor vehicle may be equipped with not more than two backup lamps either separately or in combination with other lamps, but any such backup lamp shall not be lighted when the motor vehicle is in forward motion.

(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 chapter. 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 amber 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 amber or red lights, or any shade of color between amber and red.

(See West Virginia Code 17C-15-19)

10-420. Multiple-beam road-lighting equipment - requirements generally. Except as hereinafter provided, the head lamps or the auxiliary driving lamp or the auxiliary passing lamp or combinations thereof on motor vehicles other than a motorcycle or motor-driven cycle 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 three hundred and fifty feet ahead for all conditions of loading.

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

(c) Every new motor vehicle, other than a motorcycle or motor-driven cycle, operated within the limits of the town of Sutton after the date of adoption of this code, which has multiple-beam road-lighting equipment shall be equipped with a beam indicator, which shall be lighted whenever the uppermost distribution of light from the head lamps is in use, and shall not otherwise be lighted. Said indicator shall be so designed and located that when lighted it will be readily visible without glare to the driver of the vehicle so equipped.

(See West Virginia Code 17C-15-20)

10-421. Same - Use of; dimming lights upon approaching or overtaking. (a) Whenever a motor vehicle is being operated on a roadway or shoulder adjacent thereto during the times specified in Section 10-402 of this article, the driver shall use a distribution of light, or composite beam, directed high enough and of sufficient intensity to reveal persons and vehicles at a

safe distance in advance of the vehicle, subject to the following requirements and limitations:

(b) Whenever a driver of a vehicle approaches an oncoming vehicle within five hundred feet, such driver shall use a distribution of light, or composite beam, so aimed that the glaring rays are not projected into the eyes of the oncoming driver. The lowermost distribution of light, or composite beam, specified in Section 10-420(b) of this article shall be aimed to avoid glare at all times, regardless of road contour and loading.

(c) Whenever the driver of a vehicle follows another vehicle within two hundred feet to the rear, except when engaged in the act of overtaking and passing, such driver shall use a distribution of light permissible under this article other than the uppermost distribution of light specified in Section 10-420(a) of this article.

(See West Virginia Code 17C-15-21)

10-422. 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 two hundred feet.

(See West Virginia Code 17C-15-22)

10-423. Lighting equipment on motor-driven cycles. The head lamp or head lamps upon every motor-driven cycle may be of the single-beam or multiple-beam type but in either event shall comply with the requirements and limitations as follows:

(a) Every said head lamp or head lamps on a motor-driven cycle shall be of sufficient intensity to reveal a person or a vehicle at a distance of not less than one hundred feet when the motor-driven cycle is operated at any speed less than twenty-five miles per hour and at a distance of not less than two

hundred feet when the motor-driven cycle is operated at a speed of twenty-five or more miles per hour.

(b) In the event the motor-driven cycle is equipped with a multiple-beam type head lamp or head lamps the upper beam shall meet the minimum requirements set forth above and shall not exceed the limitations set forth in Section 10-420(a) of this article and the lowermost beam shall meet the requirements applicable to a lowermost distribution of light as set forth in Section 10-420(b) of this article.

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

(See West Virginia Code 17C-15-23)

10-424. Alternate road-lighting equipment. Any motor vehicle may be operated under the conditions specified in Section 10-402 of this article 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 10-420 or Section 10-422 of this article; provided, however, that at no time shall it be operated at a speed in excess of twenty miles per hour.

(See West Virginia Code 17C-15-24)

10-425. Number of driving lamps required or permitted. (a) At all times specified in Section 10-402 of this article at least two lighted lamps shall be displayed, one on each side at the front of every motor vehicle other than a motorcycle or motor-driven cycle, 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 an auxiliary lamp or a spot lamp or any other lamp on the front thereof projecting a beam of intensity greater than three hundred 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 highway.

(See West Virginia Code 17C-15-25)

10-426. Special restrictions on lamps. (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 three hundred 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 road or street of the town 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 Section 10-419 of this article, flashing lights are prohibited on motor vehicles, except on an authorized emergency vehicle, school bus, snow removal equipment, or on any vehicle as a means for indicating right or left turn, or on any vehicle as a means of indicating the same is disabled or otherwise stopped for any emergency.

(d) Notwithstanding any other provisions of this article, 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, except as authorized by Section 10-427 of this article.

(2) Except as authorized by Sections 10-419 and 10-427 of this article, red flashing warning lights are restricted to ambulances, fire-fighting vehicles, school buses, wreckers, and personal car or truck of those volunteer firemen who are authorized by their fire chief to have such lights.

(3) All other emergency vehicles authorized by this chapter and by Section 10-427 of this article shall be restricted to amber or yellow flashing warning lights. It shall be unlawful for flashing warning lights of an unauthorized color to be installed or used 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. (See West Virginia Code 17C-15-26)

10-427. Lights on snow removal equipment must conform to state code. It shall be unlawful to operate any snow removal equipment on any road, street, or alley of the town unless the lamps thereon comply with the standards and specifications adopted by the West Virginia Department of Highways as authorized in the West Virginia Motor Vehicle Laws. (See West Virginia Code 17C-15-9)

10-428. Selling and using unapproved lamps or equipment; legibility of name, etc., of approved equipment; use of

improperly mounted, etc., equipment. (a) No person shall have for sale, sell, or offer for sale for use upon or as a part of the equipment of a motor vehicle, trailer, or semitrailer, or use upon any such vehicle any head lamp, auxiliary or fog lamp, rear lamp, signal lamp, or reflector, which reflector is required hereunder, or parts of any of the foregoing which tend to change the original design or performance, unless of a type which has been submitted to the Commissioner of the West Virginia Department of Highways and approved by him. The foregoing provisions of this section shall not apply to equipment in actual use when this section is adopted or replacement parts therefor, provided that such equipment complies with the laws relating thereto prior to the enactment hereof.

(b) No person shall have for sale, sell, or offer for sale for use upon or as a part of the equipment of a motor vehicle, trailer, or semitrailer any lamp or device mentioned in this section which has been approved by the Commissioner of the West Virginia Department of Highways unless such lamp or device bears thereon the trademark or name under which it is approved so as to be legible when installed.

(c) No person shall use upon any motor vehicle, trailer, or semitrailer any lamps mentioned in this section unless said lamps are mounted, adjusted and aimed in accordance with instructions of the Commissioner of the West Virginia Department of Highways.

(See West Virginia Code 17C-15-28)

10-429. Brakes - generally. (a) Brake equipment required:

(1) Every motor vehicle, other than a motorcycle or motor-driven cycle, when operated upon a road, street, or alley of the town 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 and every motor-driven cycle, when operated upon a road, street, or alley of the town, 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 three thousand pounds or more when operated upon a road,

street, or alley of the town 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 said 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 motor vehicle, trailer, or semitrailer hereinafter sold in this town or operated upon the streets shall be equipped with service brakes upon all wheels, with the following exceptions: (1) that 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 (2) any motorcycle or motor-driven cycle, and except that any semitrailer of less than one thousand five hundred 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 rear-most 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 and motor-driven cycles, shall be equipped with parking brakes adequate to hold the vehicle on any grade on which it is operated, under all conditions of loading on a surface free from snow, ice, or loose material. The parking brakes shall be capable of being applied in conformance with the foregoing requirements by the driver's muscular effort or by spring action or by equivalent means. Their operation may be assisted by the service brakes or other source of power provided that failure of the service brake actuation system or other power assisting mechanism will not prevent the parking brakes from being applied in conformance with the foregoing requirements. The parking brakes shall be so designed that when once applied they shall remain applied with the required effectiveness despite exhaustion of any source of energy or leakage of any kind. The same brake drums, brake shoes and lining assemblies, brake shoe anchors and mechanical brake shoe actuation mechanism normally associated with the wheel brake assemblies may be used for both the service brakes and the parking brakes. If the means of applying the parking brakes and the service brakes are connected in any way, they shall be so

constructed that a failure of any one part shall not leave the vehicle without operative brakes.

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

(b) Performance ability of brakes: Every motor vehicle or combination of motor-drawn vehicles shall be capable, at all times and under all conditions of loading, if 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 from 20 miles per hour	Deceleration in feet per second
Vehicles or combinations of vehicles having brakes on all wheels	30	14
Vehicles or combinations of vehicles not having brakes on all wheels	40	10.7

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

10-430. Same - Brakes on motor-driven cycles. No person shall operate on any road, street, or alley of the town and motor-driven cycle in the event the Commissioner of the West Virginia Department of Highways has disapproved the brake equipment upon such vehicle or type of vehicle.
(See West Virginia Code 17C-15-32; Section amended 1989)

10-431. Horns and warning devices. (a) Every motor vehicle when operated upon a road, street, or alley of the town 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 two hundred feet, but no horn or other warning device shall emit an unreasonably loud or harsh sound or a whistle. The driver of a motor vehicle shall when reasonably necessary to insure safe operation give audible warning with his horn but shall not otherwise use such horn when upon a roadway.

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

(c) It is permissible but not required that any commercial vehicle be equipped with a theft alarm signal device which is so arranged that it cannot be used by the driver as an ordinary warning signal. Any authorized emergency vehicle may be equipped with a siren, whistle, or bell, capable of emitting sound audible under normal conditions from a distance of not less than five hundred feet and of a type approved by the W.Va. Dept. 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 said latter events the driver of such vehicle shall sound said siren when reasonably necessary to warn pedestrians and other drivers of the approach thereof.
(See West Virginia Code 17C-15-33)

10-432. Mufflers; prevention of noise, fumes and smoke. (a) Every motor vehicle operated within the corporate limits of the town 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 any road, street or alley of the town.

(b) The engine and power mechanism of every motor vehicle shall be so equipped and adjusted as to prevent the escape of excessive fumes or smoke.
(See West Virginia Code 17C-15-34; Section amended 1989)

10-433. Mirrors. 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 highway for a distance of at least two hundred feet to the rear of such vehicle.
(See West Virginia Code 17C-15-35)

10-434. Windshields must be unobstructed and equipped with wipers. (a) No person shall drive any motor vehicle with any sign, poster, or other nontransparent material upon the front windshield, side wings, or side or rear windows of such vehicle

which obstructs the driver's clear view of the highway or any intersecting highway.

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

(c) Every windshield wiper upon a motor vehicle shall be maintained in good working order.

(See West Virginia Code 17C-15-36)

10-435. Tire equipment restrictions; rules and regulations as to certain tires. (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 road, street, or alley of the town any motor vehicle, trailer, or semitrailer having any metal tire in contact with the roadway.

(c) No tire on a vehicle moved on a road or street 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 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 the first day of November each year until the fifteenth day of April of the following year; provided, that in the interest of highway maintenance, no vehicle moved on a highway, other than school buses, shall be equipped with studded tires which are operational with a recommended air pressure greater than forty pounds per square inch.

(d) No studded tires or chains shall be sold or used within the Town of Sutton which do not meet the specifications established by the rules and regulations which the commissioner of the West Virginia Department of Highways shall promulgate.

(e) The Common council may in its discretion issue special permits authorizing the operation upon the roads of

traction engines or tractors having movable tracks with transverse corrugations upon the periphery of such moveable tracks or farm tractors or other farm machinery, the operation of which upon a highway would otherwise be prohibited under this article.

(See West Virginia Code 17C-15-37; Section amended 1989)

10-436. Safety glass in motor vehicles.

(See West Virginia Code 17C-15-38, Section deleted 2023)

10-437. Vehicles transporting explosives. Any person operating any vehicle transporting any explosive as a cargo or part of a cargo upon any road, street, or alley of the town shall at all times comply with the provisions of this section.

(a) Said vehicle shall be marked or placard 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 said 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.

(See West Virginia Code 17C-15-41)

10-438. Television receivers in view of driver prohibited. No motor vehicle shall be operated on any road, street, or alley within the corporate limits of the town 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.

(See West Virginia Code 17C-15-42)

10-439. Vehicles to be equipped with safety belts. No dealer in new or used automobiles shall sell, lease, transfer or trade, at retail, any passenger automobile which is manufactured after January 1, 1965, unless such vehicle is equipped with safety seat belts for the front seat, which seat belts shall meet the standards set and approved by the Society of Automotive Engineers.

(See West Virginia Code 17C-15-43)

10-440. Safety equipment and requirements for motorcyclists and motorcycles. (a) No person shall operate or be a passenger on any motorcycle 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 a motorcycle operator or motorcycle passenger shall meet the performance specifications established by the United States of America Standards Institute, Specifications for Protective Headgear for Vehicle Users, Standard Z 90.1 - 1966. Helmets worn by motorcycle operators and motorcycle passengers shall be coated with a reflectorized substance, or have attached thereto a reflectorized material, on both sides and the back thereof, with a minimum of ten square inches of coated substance or attached material in each of the three locations.

(b) No person shall operate or be a passenger on any motorcycle unless he is wearing safety, shatter resistant eyeglasses (excluding contact lenses), or eye goggles or face shield that complies with the performance specifications established by the United States of America Standards Institute, Specification for Head, Eye and Respiratory Protection Z 2.1 - 1959. In addition, if any motorcycle be equipped with a windshield or wind screen, the windshield or wind screen shall be constructed of safety, shatter resistant material that complies with the performance specifications established by the United States of America Standards Institute, Safety Glazing Materials for Glazing Motor Vehicles Operated on Land Highways, Standard z 26.1 - 1966.

(c) No person shall operate a motorcycle 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 shall ride in a seated position facing forward and only upon a permanent operator's seat attached to the motorcycle. No operator shall carry any other person nor shall any other person ride on a motorcycle unless the motorcycle 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 motorcycle 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 motorcycle. No more than two persons, the motorcycle operator and one passenger, shall ride the same motorcycle at the same time. No person shall ride sidesaddle on a motorcycle seat.

(e) Every motorcycle shall be equipped with a rear view mirror affixed to the motorcycle handlebars and adjusted so that the motorcycle operator shall have a clear view of the road and

condition of traffic behind him for a distance of at least two hundred feet.

(See West Virginia Code 17C-15-44)

10-441. Lamps and other equipment on bicycles. (a) Every bicycle when in use at nighttime shall be equipped with a lamp on the front which shall emit a white light visible from a distance of at least five hundred feet to the front and with a red reflector on the rear of a type approved by the W.Va. Dept. of Motor Vehicles which shall be visible from all distances from fifty feet to three hundred feet to the rear when directly in front of lawful upper beams of head lamps on a motor vehicle. A lamp emitting a red light visible from a distance of five hundred feet to the rear may be used in addition to the red reflector.

(b) Every bicycle shall be equipped with a brake which will enable the operator to make the braked wheels skid on dry, level, clean pavement.

(See West Virginia Code 17C-11-7, Section amended 2022)

10-442. Child passenger safety device required. Every driver who transports a child under the age of nine years in a passenger automobile, van or pickup truck other than one operated for hire, shall while such motor vehicle is in motion and operated on a street, highway, or alley within the corporate limits of the town, provide for the protection of such child by properly placing, maintaining and securing such child in a child passenger safety device system meeting applicable federal motor vehicle safety standards: Provided, that if such child is between the age of three and eight, both inclusive, a vehicle seat belt shall be sufficient to meet the requirements of this section. Provided further, that if all seat belts required to have been installed in the vehicle at the time of its manufacture are being used by passengers at the time of examination by a law officer, the driver shall not be considered to be in violation of this section.

(See West Virginia Code 17C-15-46; Section added 1989)

ARTICLE FIVE

DRIVING UNDER THE INFLUENCE, RECKLESS DRIVING

10-501. Driving under the influence.

(a) Any person who:

(1) Drives a vehicle within the corporate limits of the Town of Sutton while:

(A) He is under the influence of alcohol, or

(B) He is under the influence of any controlled substance, or

(C) He is under the influence of any other drug, or

(D) He is under the combined influence of alcohol and any controlled substance or any other drug, or

(E) He has an alcohol concentration in his blood of eight hundredths of one percent or more by weight; and

(2) Shall be guilty of a misdemeanor, and, upon conviction thereof, shall be imprisoned in the jail for not less than one day nor more than six months, which jail term shall include actual confinement of not less than twenty-four hours, and shall be fined not less than one hundred dollars nor more than five hundred dollars.

(b) Any person who, being an habitual user of narcotic drugs or amphetamine or any derivative thereof, drives a vehicle within the corporate limits of the Town of Sutton, shall be guilty of a misdemeanor, and, upon conviction thereof, shall be imprisoned in the jail for not less than one day nor more than six months, which jail term shall include actual confinement of not less than twenty-four hours, and shall be fined not less than one hundred dollars nor more than five hundred dollars.

(c) Any person who:

(1) Knowingly permits his vehicle to be driven within the corporate limits of the Town of Sutton by any other person who is:

(A) Under the influence of alcohol, or

(B) Under the influence of any controlled substance, or

(C) Under the influence of any other drug, or

(D) Under the combined influence of alcohol and any controlled substance or any other drug, or

(E) Has an alcohol concentration in his blood of eight hundredths of one percent or more by weight; and

(2) Shall be guilty of a misdemeanor, and, upon conviction thereof, shall be imprisoned in the jail for not less than six months and shall be fined not less than one hundred dollars nor more than five hundred dollars.

(d) Any person who knowingly permits his vehicle to be driven within the corporate limits of the Town of Sutton by any other person who is a habitual user of narcotic drugs or amphetamine or any derivative thereof, shall be guilty of a misdemeanor, and, upon conviction thereof, shall be imprisoned in the jail for not more than six months and shall be fined not less than one hundred dollars nor more than five hundred dollars.

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

(f) For purposes of subsection (e) of this section relating to second offenses, the following types of convictions shall be regarded as convictions under this section:

(1) Any conviction under the provisions of subsection (a), (b), (c), or (d), of the prior enactment of this section for an offense which occurred on or after the first day of September, one thousand nine hundred eighty-one, and prior to the effective date of this section.

(g) It shall be no defense hereunder that the person charged could legally possess or consume the substance causing the driver's intoxication.

(h) The sentences provided herein upon conviction for a violation of this article are mandatory and shall not be subject to suspension or probation: Provided, that a person convicted and sentenced pursuant to this section may apply to the court for alternative sentencing pursuant to the provisions of West Virginia Code §62-11A-1 et seq.

(See West Virginia Code §17C-5-2; Section amended 2022)

10-502. Reckless driving. Any person who drives any vehicle upon any street, road, or alley of the town in willful and wanton disregard of the rights or safety of others, or without due caution and circumspection and at a speed or in a manner so

as to endanger, or be likely to endanger, any person or property, is guilty of reckless driving.

Every person convicted of reckless driving may be punished upon a conviction by jail for a period of not less than five days nor more than thirty days, or by fine of not less than twenty-five dollars nor more than five hundred dollars, or by both such fine and imprisonment.

10-503. Chemical blood testing. (a) Any person who drives a motor vehicle within the corporate limits of the town of Sutton shall be deemed to have given his consent by the operation thereof, subject to the provisions of this article, to a secondary chemical test of either his blood, breath or urine for the purposes of determining the alcoholic content of his blood. A preliminary breath analysis may be administered in accordance with the provisions §17C-5-5 of the West Virginia Code whenever a law enforcement officer has reasonable cause to believe a person to have committed an offense prohibited by this section.

(b) The Sutton Police Department hereby designates as its secondary chemical test the intoxilyzer or breathalyzer as may be maintained in the offices of the Braxton County Sheriff's Department at the time of the arrest. Refusal to submit to such test may, in the discretion of the court, be admissible as evidence against the accused.

(c) A person accused under this section may demand a blood or urine test to be performed at his own expense, the results of which shall be admissible evidence against him. (See West Virginia Code §17C-5-4; Section amended 1989)

10-503-A. Evidence of blood testing results. Upon trial for any offense charged under section 10-501 of these ordinances, the results of a blood alcohol test may be admissible if the sample or specimen was taken within two hours from and after the time of arrest or of the acts alleged, and shall give rise to the following inferences or have the following effect:

(a) Evidence that there was, at that time, five hundredths of one percent or less, by weight, of alcohol in his blood, shall be prima facie evidence that the person was not under the influence of alcohol;

(b) Evidence that there was, at that time, more than five hundredths of one percent and less than eight hundredths of one percent, by weight, of alcohol in the person's blood shall be relevant evidence, but it is not to be given prima facie effect

in indicating whether the person was under the influence of alcohol;

(c) Evidence that there was, at that time, eight hundredths of one percent or more, by weight, of alcohol in his blood, shall be admitted as prima facie evidence that the person was under the influence of alcohol.

Percent by weight of alcohol in the blood shall be based upon milligrams of alcohol per one hundred cubic centimeters of blood.

A chemical analysis of a person's blood, breath or urine, in order to give rise to the presumptions or to have the effect provided for in subdivisions (a), (b) and (c) of this section, must be performed in accordance with methods and standards approved by the state department of health. A chemical analysis of blood or urine to determine the alcoholic content of blood shall be conducted by a qualified laboratory or by the state police scientific laboratory of the criminal identification bureau of the department of public safety.

(See West Virginia Code §17C-5-8; Section amended 2022)

ARTICLE SIX

PEDESTRIANS

10-601. Pedestrians subject to traffic regulations.

Pedestrians shall be subject to traffic-control signals at intersections as provided in Section 10-203 of this code, but at all other places pedestrians shall be accorded the privileges and shall be subject to the restrictions stated in this article. (See West Virginia Code 17C-10-1)

10-602. Pedestrians' right-of-way in crosswalks. (a) When traffic-control signals are not in place or not in operation the driver of a vehicle shall yield the right-of-way, slowing down or stopping if need be to so yield to 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.

(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.

(See West Virginia Code 17C-10-2)

10-603. Crossing at other than crosswalks. Every pedestrian crossing a road 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. (See West Virginia Code 17C-10-3.)

10-604. Drivers to exercise due care. Notwithstanding the foregoing provisions of this article every driver of a vehicle shall exercise due care to avoid colliding with any pedestrian upon any 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.

(See West Virginia Code 17C-10-4.)

10-605. Pedestrians to use right half of crosswalks.

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

(See West Virginia Code 17C-10-5)

10-606. Pedestrians on roadways; soliciting rides. (a) Where sidewalks are provided it shall be unlawful for any pedestrian to walk along and upon an adjacent roadway, provided that said sidewalk is in adequate and safe condition.

(b) Where sidewalks are not provided any pedestrian walking along and upon the road or street shall when practicable walk only on the left side of the roadway or its shoulder facing traffic which may approach from the opposite direction.

(c) No person shall stand in the roadway for the purpose of soliciting a ride from the driver of any vehicle.

(See West Virginia Code 17C-10-6)

10-607. 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.

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

ARTICLE SEVEN

OPERATION OF BICYCLES AND PLAY VEHICLES

10-701. Obedience to article; duty of parents and guardians; applicability of article to bicycles. a) It is a misdemeanor for any person to do any act forbidden or fail to perform any act required in this chapter.

(b) The parent of any child and the guardian of any ward shall not authorize or knowingly permit any such child or ward to violate any of the provisions of this article.

(c) These regulations applicable to bicycles shall apply whenever a bicycle is operated upon any road, street, or alley of the town or upon any path set aside for the exclusive use of bicycles subject to those exceptions stated herein.

(See West Virginia Code 17C-11-1)

10-702. 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 revisions of this chapter which by their nature can have no application.

(See West Virginia Code 17C-11-2)

10-703. Riding on bicycle seats; carrying more than one person on bicycle. (a) A person propelling a bicycle shall not ride other than upon or astride a permanent and regular seat attached thereto.

(b) No bicycle shall be used to carry more persons at one time than the number for which it is designed and equipped.

(See West Virginia Code 17C-11-3)

10-704. Clinging to vehicles. No person riding upon any bicycle, coaster, skateboard, roller skates, sled, or toy vehicle shall attach the same or himself to any streetcar or vehicle upon a roadway.

(See West Virginia Code 17C-11-4)

10-705. Riding on roadways, sidewalks, and bicycle paths. (a) Every person operating a bicycle upon a roadway shall ride as near to the right side of the roadway as practicable, exercising

due care when passing a standing vehicle or one proceeding in the same direction.

(b) Persons riding bicycles upon a roadway shall not ride more than two abreast except on paths or parts of roadways set aside for the exclusive use of bicycles.

(c) Whenever a usable path for bicycles has been provided adjacent to a roadway, bicycle riders shall use such path and shall not use the roadway.

(d) No person riding upon any bicycle, coaster, skate board, roller skates, sled, or toy vehicle shall ride the same upon any sidewalk subject to maintenance by the town.

(1) In the event any official or officer authorized to enforce these ordinances observes a minor violating the provisions of this section, such officer is hereby authorized to seize and take possession of such bicycle, coaster, skate board, roller skates, sled, or toy vehicle until such time as the parent or guardian of the minor child from whom such item was seized has presented himself or herself to such officer and requests return of the item.

(2) Upon release of such seized item to the parent or guardian, any similar infraction of this article by the same child shall give rise to an evidentiary inference that such parent or guardian has authorized or knowingly permitted such violation by the child, and such shall be considered a violation of section 10-701 above and such parent or guardian shall be subject to prosecution for such violation as if he or she were an aider and abettor of such act.

(See West Virginia Code 17C-11-5; Section amended 1989)

10-706. 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.

(See West Virginia Code 17C-11-6)

10-707. 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.

(See West Virginia Code 17C-11A-4; added January 3, 2023)

ARTICLE EIGHT

PENALTIES

10-801. Violations of chapter; penalties for misdemeanor. (a)
It is a misdemeanor for any person to violate any of the provisions of this chapter.

(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 both such fine and imprisonment; upon a third or subsequent conviction such person shall be punished by a fine of not more than five hundred dollars or by imprisonment for not more than thirty days or both such fine and imprisonment.

ARTICLE NINE

STOPPING, STANDING, AND PARKING; PARKING METERS; PARKING ZONES; PENALTIES

10-901. General parking regulations violations and penalties.

(a) Except as otherwise provided by council, all vehicles not in motion shall be stopped or parked so that the right-hand wheels of such vehicle shall be parallel to and within fifteen inches of the right-hand curb or roadside.

(b) In those parts of the corporate limits of the town where the boundaries of the parking spaces are designated, whether by lines painted on the street or roadside or by signs erected by the roadside or by meter posts erected by the roadside, the operator of any vehicle shall park said vehicle so that the same shall be entirely within such designated parking space. If any vehicle parked in a parking space is of such size that it cannot be entirely contained within a single parking space, said vehicle shall be parked so that the front end is as close as practicable to the front boundary of the occupied space or spaces, and so that the vehicle occupies the smallest number of parking spaces required by the size of the vehicle. In no case shall more than one vehicle be parked within a single parking space.

(c) Any vehicle parked so as not to be consistent with the provisions of this section shall be in violation of this section, and the operator of said vehicle shall be guilty of a misdemeanor and, upon conviction, shall be fined not less than five dollars nor more than fifty dollars.

10-902. Loading zones, violations and penalties. (a) The council has the authority to declare by proper order certain parking spaces as loading zones and to designate the same by means of signs erected by the roadside or markings on the street or curb or both.

(b) A vehicle may be left standing or parked in a loading zone only for such time as the operator of said vehicle is actively engaged in loading or unloading, up to a maximum time period of thirty minutes. Any such vehicle parked in a loading zone for more than thirty minutes without police permission or any vehicle parked in a loading zone while not engaged in loading or unloading shall be in violation of this section and the operator of said vehicle shall be guilty of a misdemeanor

and, upon conviction, shall be fined not less than five dollars nor more than fifty dollars.

10-903. Reserved parking; violations and penalties. (a) The council has the authority to declare by proper order certain parking spaces as reserved parking zones, specifically for the use of certain authorized persons, and to designate the same by means of signs erected by the roadside, or markings on the street or curb, or both.

(b) Any unauthorized vehicle parked in a reserved parking zone shall be in violation of this section, and the operator of said vehicle shall be guilty of a misdemeanor and, upon conviction, shall be fined not less than five dollars nor more than fifty dollars.

(c) Any area under the control and jurisdiction of the Town of Sutton which is designated as a parking lot shall be considered a reserved parking zone. Any unauthorized vehicle parked in such a parking area shall be subject to any and all fines and penalties as those prescribed for the violation of this section. Where there are designated time limits for parking in such a parking area, any authorized vehicle which has remained parked in such area for longer than the designated time period shall be considered as parking over time, and shall be subject to the same fines and penalties for over-time parking as specified in Section 10-905(d) of this article. In any case, no vehicle shall be parked in any such area for more than twenty-four hours consecutively.

10-904. No-Parking zones; violations and penalties. (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 follow 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) On a crosswalk;
- (6) Within twenty feet of a crosswalk at an intersection;
- (7) Within thirty feet upon the approach to any flashing beacon, stop sign, or traffic-control signal located at the side of a roadway;
- (8) 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 the signs or marking;

(9) Within fifty feet of the nearest rail of a railroad crossing;

(10) 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 said entrance (when property signposted);

(11) Alongside or opposite any street excavation or obstruction when stopping, standing, or parking would obstruct traffic;

(12) On the roadway side of any vehicle stopped or parked at the edge or curb of a street;

(13) Upon any bridge or other elevated structure, upon a highway or within a highway tunnel;

(14) At any place where official signs prohibit stopping;

(15) Within twenty feet of any mail receptacle served regularly by a carrier using a motor vehicle for daily deliveries, if such parking interferes with or causes delay in the carrier's schedule.

(16) At any place on any highway where the safety and convenience of the traveling public is thereby endangered.

(b) The council has the authority to declare by proper order certain other areas as No-Parking zones and to designate the same by means of signs erected by the roadside, or markings on the street or curb by painting the said area or otherwise indicating that parking is not permitted in that area, or both, and no standing, stopping, or parking of a vehicle will be permitted in any area so designated.

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

(d) The operator of any vehicle in violation of this section shall be guilty of a misdemeanor and, upon conviction, shall be fined not less than five dollars nor more than fifty dollars.

(See West Virginia Code 17C-13-3)

10-905. Parking meter zones, violations and penalties. (a) The council has the authority to erect and maintain parking meters for the regulation of parking and traffic control in any area where such is not prohibited by the West Virginia Motor Vehicle

Laws, and to designate the parking spaces governed by said parking meters as parking meter zones.

(b) Upon parking in a parking meter zone, the operator of the parked vehicle shall deposit a coin or coins of the United States so as to operate the parking meter mechanism according to the instructions thereon. After the deposit of such coin placing the meter in operation, the parking space may be lawfully occupied by said vehicle during the period of time indicated on the meter for the particular amount deposited. If any vehicle parked in a parking meter zone is of such size that it cannot be entirely contained within a single parking space, the operator of said vehicle shall deposit a coin or coins so as to operate each and every parking meter governing each and every parking space occupied by said vehicle or any portion thereof.

(c) Between the hours of 9:00 a.m. and 6:00 p.m. Mondays through Fridays and between the hours of 9:00 a.m. and 9:00 p.m. on Saturdays, it shall be unlawful for the operator of any vehicle to park said vehicle in a parking meter zone without placing the meter or meters in operation as specified in this section; provided, however, free parking in parking meter zones shall be permitted on Sundays and the following holidays: New Year's Day, Memorial Day, Independence Day, Thanksgiving Day, and Christmas Day.

(d) If any vehicle shall remain parked in a parking space or spaces for such length of time that the meter or meters shall indicate by a proper signal that the lawful parking period has expired, said vehicle shall be considered as parking over time, and the parking of a vehicle over time shall be a violation of this section. The operator of any vehicle parked in violation of this section shall be guilty of a misdemeanor and shall, upon conviction, be required to pay a fine of not less than fifty cents nor more than fifty dollars.

10-906. Parking tickets and fines. (a) The operator of any vehicle parked in violation of any previous section or sections of this article shall be guilty of a misdemeanor and shall be liable for the fines or penalties stated in the applicable section or sections or as indicated on the parking ticket issued by a duly authorized police officer of this town. Payment of the fine indicated on the parking ticket must be made within ten days of the date shown on the ticket and shall be accepted as an implied plea of "guilty", in which case no further action shall be taken on the part of the town, with the exception of the following: if the original fine stated on the ticket for over-

time parking is not paid within twenty-four hours of the time shown on the ticket, the amount of the fine shall be doubled for each ticket unpaid. There shall be a rebuttable presumption that the owner of any vehicle parked upon the alleys, roads, or streets of the town shall be in control thereof, and any such owner, if he be other than the operator thereof, shall subject to pay the same fine and penalties as is the operator thereof at the time such citation was issued, and such owner shall be held responsible to pay any tickets issued as a result of the operation of such vehicle.

(1) In the event the city attorney or another attorney acting on behalf of the city is called upon by the mayor or council to collect delinquent fines assessed pursuant to either paragraph (a) or (b) of this section, the registered owner of the vehicle ticketed shall hereby be deemed to have consented to a reasonable attorney fee being recovered from him as part of any civil action filed to recover such fines, provided that the delinquent owner has been first given ten days notice in writing prior to the filing of such civil action that an attorney fee will be sought to be recovered from him as a part of such action.

(b) A plea of "not guilty" of said parking violation and a request for a hearing must be entered within ten days of the date shown on the parking ticket in writing by filing a written notification thereof with the municipal judge or mayor at the office of either such official. If no response to the parking ticket, either by payment of fine or entry of a "not guilty" plea, is made within ten days of the date shown on the parking ticket, said operator and the owner of the vehicle, if he or she be other than the operator thereof shall be in violation of this section and shall be guilty of the misdemeanor of failure to acknowledge a parking ticket. Violation of this section may result in the initial fine or fines being increased at the rate of an additional one dollar for each day beyond the initial ten day period that the fine remains unpaid, not to exceed one hundred dollars for each parking ticket, in the discretion of the court.

(See West Virginia Code 17C-13-1)

10-907 Mechanical Seizure.

(Section deleted 2023)

CHAPTER ELEVEN

MISCELLANEOUS OFFENSES AND PENALTIES THEREFOR

ARTICLE ONE

OFFENSES AGAINST THE PEACE; PENALTIES

11-101. Assault and battery. No person shall within the corporate limits of the town unlawfully attempt to commit a violent injury to the person of another or unlawfully commit an act which places another in reasonable apprehension of immediately receiving a violent injury; or unlawfully and intentionally make physical contact of an insulting or revoking nature with the person of another, or unlawfully and intentionally cause physical harm to another person; or provoke another to commit any act prohibited by this section; or aid and abet or encourage anyone to commit any act prohibited by this section.

(See West Virginia Code 61-2-9(b,c); Section amended 1989)

11-102. Threats of violence or contention. No person within the town shall or threaten to beat, wound, or kill another, or commit violence against his person or property.
West Virginia Code

11-103. Disturbing the peace. No person shall commit or cause, or aid in the commission or causing of, any riot, disorder, tumult, offensive or obstreperous conduct, or any loud or boisterous noise to the disturbance or tending to the disturbance of the peace or just quiet of others, or shall by any means disturb the citizens of the town at any time; and no person shall knowingly permit such conduct, noise, or disturbance upon any premises owned or possessed by him or under his control.

11-104. Rude, indecent, or insulting behavior. No person shall conduct or behave himself in a rude, indecent, or disorderly manner; or abuse or insult any person by words or otherwise; or improperly follow, pursue, lay hands on, or otherwise insult any person; or attempt to do so; in any road, street, alley, or any public place within the town.

11-105. Penalties for Sections 11-101 through 11-104. Any person offending against any provision of the preceding sections of this article shall be guilty of a misdemeanor and, upon

conviction, shall be fined not less than five nor more than one hundred dollars, or may, at the discretion of the court, be imprisoned not to exceed thirty days, or both such fine and imprisonment.

(See West Virginia Code 61-6-13; Section amended 1989)

11-106. Disturbance of school, meeting, or festival; penalties.

It shall be unlawful for any person within the corporate limits of the town to willfully and unlawfully interrupt, molest, or disturb any free school, or other school; a school exhibition; or any literary society or any other society or meeting formed or convened for intellectual, social, or moral improvement or for improvement in music, either vocal or instrumental, or for any moral or social amusement; or any other social activity organized or carried on under or in pursuance of the laws of this state; or any Fourth of July celebration, or any festival; or any society lawfully carried on. Any person offending against any provision of this section shall be guilty of a misdemeanor and, upon conviction, shall be fined not less than ten nor more than fifty dollars and may, at the discretion of the court, be confined in jail not more than thirty days in addition to such fine.

(See West Virginia Code 61-6-14; Section amended 1989)

11-107. Disturbance of religious meeting; penalties. If any person willfully and unlawfully interrupt, molest, or disturb any assembly of people lawfully met for the worship of God or convened for the purpose of any recognized religious function, within the corporate limits of the town, he shall be guilty of a misdemeanor, and, upon conviction, shall be confined in jail not more than thirty days and fined not less than twenty-five nor more than one hundred dollars.

(See West Virginia Code 6-6-13; Section amended 1989)

11-108. Carrying concealed weapons. (a) Definitions: The definitions of the terms "blackjack", "gravity knife", "knife", "switchblade knife", "nunchuka", "metallic" or false knuckles", "pistol", "revolver", ', 'deadly weapon', "concealed" and "firearm", as they are defined by West Virginia Code Chapter 61, Article 7, Section 2 are hereby adopted and incorporated into these Town Ordinances as if they were set out herein in their entirety and the said definitions shall apply wherever any such term is used within the said Town Ordinances unless otherwise provided for therein.

(b) It shall be unlawful for any person, within the corporate limits of the town, without a valid state license or

other lawful authorization established by the provisions of the West Virginia Code, as amended, or the provisions of the Constitution of the United States of America, or the provisions of the Constitution of the State of West Virginia, to carry concealed any firearm, revolver, pistol, gravity knife, knife, switchblade knife, nunchuka, metallic or false knuckles, or any other deadly weapon of like kind or character. Any person convicted of offending against the provisions of this section shall be guilty of a misdemeanor and, upon conviction thereof, shall be fined in an amount not to exceed two hundred dollars and may be confined in jail for a period of not more than thirty days, or both so fined and jailed. None of the provisions of this section shall be so construed as to prevent any bonded officer charged with the execution of the laws of the state or of the ordinances of this town from carrying any of said weapons while in the performance of his duties as such officer. (See West Virginia Code 61-7-3; Section amended 1989)

11-109. Brandishing deadly weapons, penalties. (a) It shall be unlawful for any person armed with a firearm, revolver, pistol, or other deadly weapon, whether licensed to carry the same or not, to carry, brandish, or use such weapon in a way or manner to cause, or threaten, a breach of the peace within the corporate limits of the town. Any person violating this section shall be fined not less than fifty nor more than three hundred dollars, or confined in jail for a period not to exceed thirty days, or both so fined and jailed, in the discretion of the court.

(b) It shall be unlawful for any person armed with a firearm, revolver, pistol, or other deadly weapon within the corporate limits of the town, except for law-enforcement officers in the lawful performance of their duty to brandish, unholster, or hold such deadly weapon in his or her hand in or upon the premises of any business within the town or in or upon the premises of any building within which any of the offices of the town government are maintained.

(See West Virginia Code 61-7-11; Section amended 1989)

11-110. Obstructing an officer, penalties. If any person within the corporate limits of the town by threat, menace, act or otherwise, forcibly or illegally attempt to hinder, resist, oppose, or obstruct any police officer of the town in the lawful execution of his duty or in the lawful execution of any power or authority required of or granted to such officer by law or by any ordinance of this town, or shall so resist the Mayor or the Recorder or any member of the council in exercising powers

conferred by Chapter Two of this code, or shall aid, abet, or assist any other person in so resisting or obstructing any such officer or officers, he shall be guilty of a misdemeanor and shall, upon conviction thereof, be fined not less than five nor more than one hundred dollars and costs of prosecution of every such offense, and may at the discretion of the court be confined in jail not to exceed thirty days in addition to such fine.
(See West Virginia Code 61-5-17; Section amended 1989)

11-111. Removing offender from custody, penalties. If any person shall rescue, or assist, or attempt to rescue, or take from the custody of the chief or any police officer of the town any person charged with or convicted of any offense against any ordinance of said town, or shall rescue or attempt to rescue or assist in the escape of such offender from any guard or person charged with his safe keeping, or aid and abet therein, he shall, upon conviction, be fined not less than five nor more than one hundred dollars and may in addition thereto be confined in jail not to exceed thirty days.

11-112. Interfering with arrest, refusing assistance; penalties. If any person on being requested, directed, or required by the Mayor or other person acting in his stead, or by the chief of police or any police officer, or by the Recorder or any member of the council of said town to arrest or assist in the arrest or conveyance to jail of any person charged with offending against the ordinances of said town or the laws of the State of West Virginia, shall neglect or refuse such assistance, or if any person shall crowd around such officer or policeman when directing or making an arrest or annoy him in such manner as to attract attention or disturb him in the discharge of his duties, such person so offending shall, upon conviction thereof, be fined not to exceed fifty dollars.
(See West Virginia Code 61-5-14; Section amended 1989)

11-113. Bribery for concealment of offense, penalties. If a person, knowing of the commission of an offense punishable under any of the provisions of the ordinances of this town, take any money or reward, or any engagement therefor, upon an agreement, expressed or implied, to compound or conceal such offense, or not to prosecute therefor, or not to give evidence thereof, he shall be fined not exceeding one hundred fifty dollars, and may, in addition thereto, in the discretion of the court, be jailed for a period not exceeding twenty days, or both so fined and jailed.

Any police officer of the town convicted under the provisions of this section shall be discharged from the police department.

11-114. Impersonating a government officer or employee, penalties. No person other than an official police officer of the Town of Sutton shall wear the uniform, apparel, or badge, or carry any identification card or other insignia of office like or similar to, or a colorable imitation of that adopted and worn or carried by the official police officers of the town. Furthermore, no person shall deceitfully impersonate or represent that he is any government officer or employee. Any person offending against the provisions of this section shall be guilty of a misdemeanor and shall, upon conviction, be fined not to exceed one thousand dollars or confined in jail not to exceed thirty days, or both such fine and imprisonment, in the discretion of the court.

ARTICLE TWO

OFFENSES AGAINST MORALITY AND DECENCY; PENALTIES

11-201. Profanity, penalties. No person shall use any profane, vulgar, or indecent language in or near any public street or other public place or in or around any place of business open to use of the public in general. Any person offending against the provisions of this section shall be guilty of a misdemeanor and, upon conviction, shall be fined not less than five nor more than fifty dollars.

(See West Virginia Code 61-8-15; Section amended 1989)

11-202. Immoral conduct, penalties. No person shall commit, offer or agree to commit, nor shall any person secure or offer another for the purpose of committing, a lewd or adulterous act or act of prostitution or moral perversion; nor shall any person knowingly transport or direct or offer to transport or direct any person to any place or building for the purpose of committing any lewd act or act of prostitution or moral perversion; nor shall any person knowingly receive, or offer or agree to receive any person into any place or building for the purpose of performing a lewd act or an act of prostitution or moral perversion, or knowingly permit any person to remain in any place or building for any such purpose. Any person offending against the provisions of this section shall be guilty of a misdemeanor and shall, upon conviction, be fined not to exceed one thousand dollars or confined in jail not to exceed thirty days, or both such fine and imprisonment, in the discretion of the court.

(See West Virginia Code 61-8-5; Section amended 1989)

11-203. Indecent exposure penalties. It shall be unlawful for any person within the corporate limits of the town to intentionally expose his or her sex organs or anus, or the sex organs or anus of another person, or engage in any overt act of sexual gratification, under circumstances in which the person so acting knows that his or her conduct is likely to cause affront or alarm to another person: provided, that it is not considered indecent exposure for a mother to breast feed a child in any location, public or private. Any person offending against the provisions of this section shall be guilty of a misdemeanor and shall, upon conviction, be fined not less than twenty-five nor more than one hundred dollars, and may, in the discretion of the court, in addition to such fine be confined in jail not to exceed thirty days.

For the purposes of this section, the term "sex organs" shall be defined so as to include the male penis, the female vagina, the pubic hair of either sex, and the breasts of a female.

(See West Virginia Code 61-8-9; Section amended 2022)

11-204. Obscene literature, etc.; penalties.

(Section deleted on constitutionality grounds 1989.)

11-205. Public assembly for indecency etc.; penalties.

(deleted on constitutionality grounds 1989.)

11-206. Disorderly house, penalties. It shall be unlawful for any person to keep a disorderly house or house of ill fame for the purpose of prostitution of lewdness or where drunkenness, quarrelling, fighting, or other breaches of the peace are carried on or permitted to the disturbance of others. Any person offending against the provisions of this section shall be guilty of a misdemeanor and shall, upon conviction, be fined not less than twenty-five nor more than one hundred dollars and may also, in the discretion of the court, be confined in jail not to exceed thirty days.

11-207. Houses of ill fame and assignation penalties. (a) Any person who shall keep, set up, maintain, or operate any house, place, building, hotel, tourist camp, other structure, or part thereof, or vehicle, trailer, or other conveyance for the purpose of prostitution, lewdness, or assignation; or who shall own any place, house, hotel, tourist camp, other structure, or part thereof, or trailer or other conveyance knowing the same to be used for the purpose of prostitution, lewdness, or assignation, or who shall let, sublet, or rent any such place, premises, or conveyance to another with knowledge or good reason to know of the intention of the lessee or renter to use such place, premises, or conveyance for prostitution, lewdness, or assignation; or who shall offer, or offer to secure, another for the purpose of prostitution, or for any other lewd or indecent act; or who shall receive or offer or agree to receive any person into any house, place, building, hotel, tourist camp, or other structure, or vehicle, trailer, or other conveyance for the purpose of prostitution, lewdness, or assignation, or to permit any person to remain there for such purpose; or who for another or others shall direct, take, or transport, or offer or agree to take or transport, or aid or assist in transporting, any person to any house, place, building, hotel, tourist camp, other structure, vehicle, trailer, or other conveyance, or to

any other person with knowledge or having reasonable cause to believe that the purpose of such directing, taking, or transporting is prostitution, lewdness, or assignation, or who shall aid, abet, or participate in the doing of any acts here prohibited, shall, upon conviction, be punished by a fine of not less than one hundred dollars nor more than two hundred fifty dollars and may, in the discretion of the Court be imprisonment in jail for a period of up to thirty days.

(b) Any person who shall engage in prostitution, lewdness, or assignation, or who shall solicit, induce, entice, or procure another to commit an act of prostitution, lewdness, or assignation; or who shall reside in, enter, or remain in any house, place, building, hotel, tourist camp, or other structure, or enter or remain in any vehicle, trailer, or other conveyance for the purpose of prostitution, lewdness, or assignation; or who shall reside in, enter, or remain in any house, place, building, hotel, tourist camp, or other structure, or enter or remain in any vehicle, trailer, or other conveyance for the purpose of prostitution, lewdness, or assignation; or who shall aid, abet, or participate in the doing of any of the acts herein prohibited, shall, upon conviction for the first offense under this section, be punished by a fine of not less than fifty dollars not more than two hundred fifty dollars, and may be jailed for a period of not less than thirty days, or both so fined and jailed.

(c) All leases and agreements, oral or written, for letting, subletting, or renting any house, place, building, hotel, tourist camp, or other structure which is used for the purpose of prostitution, lewdness, or assignation, shall be void from and after the date any person who is a party to such an agreement shall be convicted of an offense hereunder. The term "tourist camp" shall include any temporary or permanent buildings, tents, cabins, or structures, or trailers, or other vehicles which are maintained, offered, or used for dwelling or sleeping quarters for pay.

(d) In the trial of any person, charged with a violation of any of the provisions of this section, testimony concerning the reputation or character of any house, place, building, hotel, tourist camp, or other structure, and of the person or persons who reside in or frequent the same, and of the defendant or defendants, shall be admissible in support of the charge. (See West Virginia Code 61-8-5; Section amended 1989)

11-208. Public fornication; penalties. If any person commit adultery or fornication in any public place he shall be guilty of a misdemeanor, and upon conviction thereof shall be fined not less than twenty-five nor more than fifty dollars.

(See West Virginia Code 61-8-3; Section amended 1989)

ARTICLE THREE

OFFENSES AGAINST PROPERTY; PENALTIES

11-301. Damage to public trees prohibited. It shall be unlawful for any person to willfully cut, mark, injure, disfigure, or destroy any tree growing in the public grounds, streets, alleys or sidewalks of said town, unless so ordered or permission granted by the Mayor, Superintendent of Roads, Streets and Alleys, or the council.

(Section amended 1989)

11-302. Posting bills or damage to trees and utility poles prohibited. It shall be unlawful for any person to injure, deface, or destroy, or post or fasten any bill or advertisement to, any tree, or any post or pole erected for lighting purposes, or any telephone or telegraph pole in said town.

11-303. Damage to street lights prohibited. It shall be unlawful for any person to injure or destroy any electric light or other appliance used for street lighting within the town. It shall also be unlawful for anyone not authorized to do so, to put out any street light.

(Section amended 2022)

11-304. Intentional damage or destruction of public or private property prohibited. It shall be unlawful for any person within the corporate limits of the town to intentionally engrave, deface, mutilate, injure, or destroy any property of the town, or any house, fence, railing, or any goods or chattels, the property of any other person or persons.

(See West Virginia Code 61-3-30.)

11-305. Throwing missiles at property prohibited. It shall be unlawful for any person to willfully or maliciously throw stones, bricks, bats, clubs, or other missiles against any building, window, fence, sign transparency, or flag.

11-306. Removal of signs or other property, blocking traffic lanes prohibited. a) It shall be unlawful for any person within the corporate limits of the town to remove, take or carry away any personal property belonging to any other person without the owner's permission, or to remove, take or carry away any property of the town, without the consent of the owner thereof, from any location at which the said property has been lawfully

and intentionally placed, with the intent to interfere with the owner's use thereof.

(b) It shall be unlawful for any person to place any item of personal property onto any sidewalk, street, alley, or public place with the intention of blocking or impeding the use thereof, without the prior approval of the council, mayor, recorder, or chief of police.
(Section amended 1989)

11-307. Damage to Public toilets prohibited. It shall be unlawful for any person to injure, deface, or defile any toilet provided by the town or county or by any individual, firm, or corporation, for the use of the public, by cutting or scratching, or writing or printing on the walls thereof or fixtures therein, or by willfully daubing the same with excrement or filth of any kind, or wetting the same.
(See West Virginia Code 61-3-30)

11-308. Malicious mischief Prohibited. (a) It shall be unlawful and deemed to be malicious mischief for any person within the corporate limits of the town, to ring any door bell, or to rap upon any door or window, with intent to annoy or deceive the occupants of any such house or store.

(b) It shall be unlawful for any person to willfully or wantonly damage, deface, destroy, tamper with, remove, or withhold from its owner or lawful possessor any real or personal property which does not belong to the person so acting.
(Section amended 1989)

11-309. Penalties for Sections 11-301 through 11-308. Any person offending against any provision of the preceding sections of this article shall be guilty of a misdemeanor and shall, upon conviction, be fined not less than ten nor more than one hundred dollars for each such offense.
(Section amended 1989)

11-310. Damaging grave markers or plants Penalties. If any person shall willfully maliciously destroy, mutilate, deface, injure, or remove any tomb, monument, gravestone, or other structure placed within any cemetery or graveyard within the town or any part of any fence or enclosure, or shall willfully or maliciously destroy, remove, cut, break, or injure any tree, shrub, or place within the graveyards aforesaid, he shall, upon conviction, be fined not less than five nor more than fifty dollars for each such offense, and may, in the discretion of the

Court be jailed for a period not to exceed thirty days, or both so fined and jailed.
(Section amended 1989)

11-311. Removing or damaging cemetery flowers, penalties. If any person or persons visiting any cemetery or graveyard within the town who not being authorized so to do shall pluck from any bush any rose, flower, or evergreen, so as to mar or destroy its beauty, or take or carry off any artificial flower or any flower nourished and grown within any cemetery or graveyard, he shall, upon conviction, be fined not less than ten nor more than fifty dollars.

11-312. Trespass in structure or conveyance. Any person who knowingly enters in, upon, or under a structure or conveyance without being authorized, licensed, or invited, or having been authorized, licensed, or invited is requested to depart by the owner, tenant, or the agent of such owner or tenant, and refuses to do so, shall be guilty of a misdemeanor and, upon conviction thereof, shall be fined not more than one hundred dollars, and may in addition to such fine, be jailed for a period not to exceed thirty days.

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

(See West Virginia Code 61-3B-2; Section amended 2022)

11-313. Trespass on property other than structure or conveyance. (a) Any person who knowingly and without being authorized, licensed, or invited, enters or remains on any property, other than a structure or conveyance, as to which notice against entering or remaining is either given by actual communication to such person or by posting, fencing, or cultivation, shall be guilty of a misdemeanor and, upon conviction thereof, shall be fined not more than one hundred dollars.

(b) If the offender defies or refuses to obey an order to leave, personally communicated to him by the owner, tenant, or

agent of such owner or tenant, or if the offender opens any door, fence, or gate, and thereby exposes animals, crops, or other property to waste, destruction, or freedom, or causes any damage to property by such trespassing on property other than a structure or conveyance, he shall be guilty of a misdemeanor and, upon conviction thereof, shall be fined not less than one hundred dollars nor more than five hundred dollars or imprisoned in the jail for a period not to exceed thirty days, or both such fine and imprisonment, in the discretion of the court.

(c) If the offender is armed with a firearm or other dangerous weapon with the unlawful and felonious intent to do bodily injury to a human being during his commission of the offense of trespass on property other than a structure or conveyance, such offender shall be guilty of a misdemeanor and, upon conviction thereof, shall be confined in the jail for a term not to exceed thirty days, or fined not more than one hundred dollars, or both such fine and imprisonment, in the discretion of the court.

(d) Notwithstanding and in addition to any other penalties provided by law, any person who performs or causes damage to property in the course of a willful trespass shall be liable to the property owner in the amount of twice the amount of such damage: Provided, that the provisions of this article shall not apply in a labor dispute.

(See West Virginia Code 61-3B-3; Section amended 2022)

11-314. Defacing private property, penalty. It shall be unlawful for any person without authority from the owner thereof, or from some authorized agent of such owner, to cut down, mutilate, deface, tear down, destroy or injure any fence, tree, shrub, plant building or other structure lawfully upon the land of another in said town. Any person offending against the provisions of this section shall be guilty of a misdemeanor and, upon conviction, shall be fined not more than one hundred dollars for each offense; and upon failure of said person to correct, remove, or repair such damage within a reasonable time as directed by the court, each period of forty-eight hours thereafter shall constitute a separate violation of this section.

11-315. Larceny. If any person within the corporate limits of the town commit simple larceny of goods or chattels of the value of less than two hundred dollars, such person shall be guilty of a misdemeanor, designated petit larceny, and, upon conviction thereof, shall be confined in the jail for a term not to exceed

thirty days, or fined not to exceed five hundred dollars, or both such fine and jail sentence, in the discretion of the Court.

ARTICLE FOUR

OFFENSES AGAINST PUBLIC POLICY AND GOOD ORDER; PENALTIES

11-401. Keeping or exhibiting gaming table, machine, or device; penalty; seizure of table, machine or devices; forfeiture of money used in such gaming. Any person who shall within the corporate limits of the town keep or exhibit a gaming table, commonly called A.B.C. or E.O. table, or faro bank, or keno table, or any slot machine, multiple coin console machine, multiple coin console slot machine or device in the nature of a slot machine, or any other gaming table or device of like kind, under any denomination, or which has no name, whether the game, table, bank, machine or device be played with cards, dice, or otherwise, or shall be a partner, or concerned in interest, in keeping or exhibiting such table, bank, machine, or gaming device of any character, with the intention of encouraging or enticing any other person to gamble with the said item shall be guilty of a misdemeanor and, upon conviction, may be confined in jail for a period not to exceed thirty days and be such person shall be fined not less than one hundred nor more than one thousand dollars. Any such table, faro bank, machine, or gaming device, and all money staked or exhibited to allure persons to bet at such table, or upon such gaming device, may be seized by order of the municipal judge and the money so seized shall be forfeited to the town and paid into the treasury of the town, and the table, faro bank, machine, or gaming device shall be completely destroyed: Provided, however, that the provisions of this section shall not extend to coin-operated nonpayout machines with free play feature or to automatic weighing, measuring, musical and vending machines which are so constructed as to give a certain uniform and fair return in value or services for each coin deposited therein and in which there is no element of chance.

(See West Virginia Code 61-10-1; Section amended 1989)

11-402. Permitting gaming table or device on premises; penalty. If any person knowingly permit a gaming table, band, or device, such as is mentioned in the preceding section (11-401) to be kept or exhibited on any premises in his occupation, knowing that the same is being kept or exhibited for the purpose of encouraging or enticing gambling in connection therewith, he or she shall be guilty of a misdemeanor and, upon conviction, may be confined in jail not more than thirty days, and shall be fined not less than one hundred dollars nor more than one thousand dollars.

(See West Virginia Code 61-10-2; Section amended 1989)

11-403. Unlawful to act as doorkeeper, guard, or watch for keeper of gaming table or device; penalty. If any person shall act as doorkeeper, guard, or watch, or employ another person to act as such, for the purpose of protecting any person engaged in gambling from detection, arrest, or capture or for the purpose of protecting any such gaming table, bank, or device, or shall resist, or by any means or device, prevent, hinder, or delay the lawful arrest of such gambler, keeper or exhibitor, or the seizure of the table, bank, or device, or money exhibited or staked thereat, or shall unlawfully take the same from the person seizing it, he shall be guilty of a misdemeanor, and, upon conviction, may be confined in jail not more than thirty days and such person shall be fined not exceeding one thousand dollars.

(See West Virginia Code 61-10-3; Section amended 1989)

11-404. Playing or betting at gaming tables and devices; playing or betting on games at hotels and public places; penalty. If any person bet or play at any such gaming table, bank, or device as it mentioned in the first section of this article (11-401), or if, at any hotel or tavern or other public place or place of public resort, he gamble or bet on the sides of those who play at any game, whether the game be permitted or licensed or not, he shall be guilty of a misdemeanor and, upon conviction, shall be fined not less than five nor more than one hundred dollars.

(See West Virginia Code 61-10-4)

11-405. Betting on games of chance; furnishing money or thing of value therefor; penalty. If any person at any place, public or private, bet or wage money or other thing of value on any game of chance, or shall knowingly furnish any money or other thing of value to any other person to bet or wage on any such game, he shall be guilty of a misdemeanor and, upon conviction, shall be fined not less than five nor more than three hundred dollars.

(See West Virginia Code 61-10-5.)

11-406. Permitting gaming at hotels; penalty. It shall be unlawful for the keeper, owner, of operator of any licensed hotel, tavern, eating house or restaurant, or billiard or pool room, or bowling alley to bet or gamble, or knowingly permit any persons to bet or gamble, in his place of business, for money or any other thing of value. The violation of any provision of this section shall constitute a misdemeanor and, upon

conviction, the offender shall be fined not less than twenty nor more than one hundred dollars, and in addition, said violation shall be sufficient cause for revoking any license issued by the council to said keeper, owner, or operator.

(See West Virginia Code 61-10-6; Section amended 1989)

11-407. Unlawful to trick, game, swindle, or pickpocket; penalty. If any person shall practice any trick, game, or device with intent to swindle; or pick or attempt to pick, or aid in picking pockets; or carry off from any building, enclosure, or lot within the town, property, without the authority of the owner of such property or his or her agents, he shall, upon conviction, be fined not less than fifty nor more than five hundred dollars and may, at the discretion of the judge, be confined in jail for a period not to exceed thirty days.

11-408. vagrancy; penalty.

(Delete on constitutionality grounds, 1989.)

11-409. Loitering; penalty. (a) Any person, individually or as part of a group of persons, on public property, including streets, sidewalks and curbs, or on private property which is regularly open for business to the public, regardless of whether it is open for business at the time, or on or in a vehicle that is on public property or on private property which is regularly open for business to the public regardless of whether it is open for business at the time, who loiters in a manner which is prohibited by shall be guilty of a misdemeanor, and, upon conviction thereof, shall be fined in an amount not to exceed \$25.00; for the second offense, such person shall be fined in an amount not to exceed \$50.00; for the third or any subsequent offense, such person shall be fined in an amount not to exceed \$100.00.

Loitering which is prohibited is defined as conduct (1) which creates a nuisance, disturbance or annoyance to the comfort or safety of any person; or (2) which obstructs the free passage of pedestrians or vehicles; or (3) which causes obstruction or interference with any person or vehicle lawfully in any public place or on any private property which is regularly open for business to the public (regardless of whether it is open for business at the time); or (4) which involves the making of unsolicited remarks or gestures of any offensive, disgusting or insulting nature or which are intended to annoy or disturb any person in whose hearing or sight they are made.

(Amended on Aug 26, 2010)

11-410. Unlawful entry; penalty. It shall be unlawful for any person, without the consent or permission of the owner, proprietor, or lessee, to enter into any hall, building, or enclosed ground in said town in which any show, entertainment, athletic event, picnic, or any exhibition of any kind whatever, is being held, for admission to which a charge is sought by such owner, proprietor, or lessee, without paying the announced or posted admission fee. Any person offending against the provisions of this section shall be guilty of a misdemeanor and, upon conviction, shall be fined not more than one hundred dollars.

(Section amended 1989)

11-411. Throwing missiles at persons, penalties. If a person throws a ball or snowball or any other missile upon any of the roads, streets or alleys of the town which shall injure, annoy, or endanger any person, whether the throwing be with intent to disturb the peace or not, the person so offending shall be guilty of a misdemeanor and, upon conviction, shall be liable to a fine of not less than one nor more than fifty dollars, and if any damage be occasioned to the personal or real property of any person by such act, the person so acting shall be liable also for the damages occasioned.

(Section amended 1989)

11-412. Discharging firearms within the town, penalties. It shall be unlawful for any person to fire or discharge within the town any cannon, gun, pistol, revolver, or firearm, or any firecracker, Squib, rocket or fireworks, except it be in case of necessity, or in the discharge of some public duty, or at a military parade or funeral, or with the permission of the mayor of the town. Any person offending against the provisions of this section shall be guilty of a misdemeanor and shall, upon conviction, be fined not less than five nor more than fifty dollars.

(Section amended 1989)

11-413. Unlawful to smoke in areas not designated for smoking, penalties. It shall be unlawful for any person to light, smoke, or possess a lighted cigar, cigarette, pipe, or other such object of substance which may tend to constitute a fire hazard when discarded or which may tend to give off any fumes, smoke, or odor that may be offensive or injurious to the public, in any hallway, stairway, or other area of any public building or other structure which is not designated by signs or other markings as a "Smoking" area. Any person offending against the provisions

of this section shall be guilty of a misdemeanor and shall, upon conviction, be fined not to exceed fifty dollars for each such offense.

(Section amended 2022)

11-414. Curfew for juveniles; penalties. It shall be unlawful for any person under the age of 18 to loaf, loiter, or remain unnecessarily on the streets, sidewalks, or other public thoroughfares of the town after the hour of 10:00 p.m. during the months of June, July, and August, and after the hour of 9:00 p.m. during the remaining months of the year; however, this shall not be construed to prohibit the lawful passage along said public thoroughfares of any such person to or from any school or community function or place of business, or when accompanied by a parent or guardian.

In the event any such person under the age of 18 shall be found by any law-enforcement official to be in violation of this section, such person shall be taken into protective custody until he can be released into the custody of a parent or guardian, which parent or guardian shall be informed of his responsibility for any future violations of this or any other section of this code by his minor child or ward. For a second or further violation of this section, such child or ward shall be taken into said protective custody and, upon conviction, his parent or guardian shall be fined not more than fifty dollars.