

# **CITY OF RAVENSWOOD, WEST VIRGINIA**

## **CODE OF ORDINANCES**

AMERICAN LEGAL PUBLISHING CORPORATION

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**RAVENSWOOD, WEST VIRGINIA**

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**Editor's note:**

*The Charter as herein set out is as published in the Ravenswood Town Code of 1936 (there having been no Charter amendment since revision of the Charter in 1868), except that section catchlines and the frontal section analysis have been supplied by the editors and are unofficial.*

*The following extract from the preface to the Ravenswood Town Code of 1936, captioned "History of Ravenswood," may be of interest:*

*"The Town of Ravenswood was originally incorporated by the General Assembly of Virginia, March 10th, 1852. (Acts 1852, Chap. 400, page 296.) Again by the Legislature of West Virginia, Feb. 25th, 1868. (Acts 1868, Chap. 51, page 47.) It is now controlled by Chap. 8 of the Official Code of West Virginia. On Sept. 2nd, 1898, page 80 of the records of the council, appears an ordinance submitting to a vote, the question of enlarging the corporate limits of the Town, as therein specified, [and on] Oct. 4th, 1898, page 82, said ordinance is by the Council declared adopted and said limits enlarged as therein specified [by metes and bounds] . At the November term of the Circuit Court, 1898, the said ordinance was approved and said limits established as specified, which order is found in Book No. 14, on page 374 of the law records of said Court."*

*The legislature, in its 1969 revision and consolidation of chapters 8 and 8A of the Code of West Virginia into a new Chapter 8, recognized, in section 8-1-6, "that when the provisions of existing special legislative charters are compared with and are considered in the light of the provisions of this chapter, [i.e., the new chapter 8], there are five basic possibilities*

*as to the relationship between such charter provisions and the provisions of this chapter, namely: (1) As to any particular charter provisions, such charter provisions may be inconsistent or in conflict with the pertinent provisions of this chapter; (2) although relating to the same subject matter and although not inconsistent or in conflict with any provisions of this chapter, certain charter provisions may be sufficiently different from pertinent provisions of this chapter as to indicate, as a matter of practical construction, that either the charter provisions or the provisions of this chapter, but not both, should be applicable; (3) although varying in certain respects, certain charter provisions may be similar to and in essential harmony with corresponding provisions of this chapter; (4) as to any particular charter provisions, there may be no counterpart of such provisions in this chapter; and (5) as to any provisions of this chapter, there may be no counterpart charter provisions."*

*Section 8-1-6, therefore, sets forth certain rules to be applied, in addition to the usual and ordinary rules of statutory construction, with respect to construction and applicability of legislative charters, and it is suggested that users of this city code refer to W. V. Code, § 8-1-6, in determining the present construction and applicability of any portion of the Ravenswood Charter to any given situation.*

## **ACTS OF THE LEGISLATURE OF WEST VIRGINIA, 1868, CHAPTER 51**

An ACT to amend and re-enact the Charter of the Town of Ravenswood, in the County of Jackson.  
Passed February 25, 1868.

Be it enacted by the Legislature of West Virginia:

That the charter of the Town of Ravenswood be amended and reenacted so as to read as follows:

Sec. 1. Boundaries.

The corporate limits of the Town of Ravenswood shall be as follows, to-wit: Beginning at the mouth of Sand Creek, at low water mark, and running thence with said creek to the foot of Gallatin Street; thence with the line of said street to the line of R. S. Brown's farm; thence with the line of said farm to the Ohio River; thence down the Ohio River, at low water mark, to the place of beginning.

Sec. 2. Municipal authorities; common council.

The municipal authorities of said town shall be a Mayor, Recorder and five Councilmen, who together shall be a common council.

Sec. 3. Mayor, recorder and councilmen constitute body politic under name of Town of Ravenswood; corporate powers generally.

The Mayor, Recorder and Councilmen, so soon as they have been elected and qualified as hereinafter provided, shall be a body politic by the name of "The Town of Ravenswood," and shall have perpetual succession and a common seal, and by that name may sue and be sued, implead and be impleaded, may purchase and hold real estate and other property necessary to enable them the better to discharge their duties and needful for the good order, government and welfare of the said corporation.

Sec. 4. Exercise of corporate powers.

All corporate powers of the said town shall be exercised by the said council, or under their authority, except where otherwise provided.

Sec. 5. Officers of town sergeant, treasurer and overseer of the poor created.

There shall be a Town Sergeant, Treasurer, and an overseer of the poor.

Sec. 6. Elective officers.

The Mayor, Recorder and Councilman shall be elected by the citizens of said corporation who may be entitled under this act to vote.

Sec. 7. Term of elective officers.

Their term of office shall be (except when to fill vacancies) for one year, and until their successors have been elected and qualified as hereinafter provided.

Sec. 8. Elective officers must be freeholders in town and entitled to vote at town elections for officers.

The Mayor, Recorder and Councilmen must be freeholders in said corporation, and entitled to vote for members of its common council.

Sec. 9. Holding of annual elections; certificates of election.

The first election under this act shall be held on the second Monday in March, eighteen hundred and sixty-eight, in the town of Ravenswood, under the supervision of the supervisor and inspector of elections of Gilmore township; and annually thereafter there shall be an election in each year, at such time and place, and under such supervision, rules and regulations as the council may prescribe. The officers conducting the first election shall grant a certificate to the persons elected, which certificate shall be recorded in the journal kept by the council.

Sec. 10. Qualifications of electors.

All persons residing in said town, and who shall have paid the town taxes, if any, assessed against them for the preceding year, shall be entitled to vote for all officers elected by the people under this act.

Sec. 11. Filling vacancies in office.

All vacancies occurring from any cause, in any of the offices provided for in this act, shall be filled by appointment by the Council.

Sec. 12. Voting to be by ballot at all elections.

At all elections the vote shall be by ballot.

Sec. 13. Manner of breaking tie vote at any election.

Whenever two or more persons for the same office, at any election, shall receive an equal number of votes, the officers conducting the election shall, in an equitable mode prescribed by the council, determine which of the persons so voted for shall be returned elected.

Sec. 14. Provisions relating to contested elections.

All contested elections shall be heard and decided by the council for the time being, but the council may order a new election, if they are satisfied the ends of justice will be better attained thereby.

Sec. 15. Quorum of common council.

A majority of the whole number of officers mentioned in the second section of this act, shall be necessary to the transaction of any business whatever.

Sec. 16. Oath of members of common council.

The Mayor, Recorder, Councilmen, and all officers herein provided for, shall each, before entering upon the duties of his office, and within two weeks from the time of his election or appointment, take and subscribe the oath prescribed by the Act of the Legislature of this State, passed November sixteenth, eighteen hundred and sixty-three, and an oath to faithfully and impartially discharge the duties

of his office. The mayor having taken such oath or affirmation, may administer the same to the councilmen and other officers; certificates of said oath, or affirmation, shall be recorded in the journal kept by the council; and whenever two-thirds of the members of the common council shall have qualified, they shall enter upon their said offices, and shall supersede the former council of said town.

Sec. 17. Procedure upon member of common council failing to qualify.

If any one who shall have been duly elected Mayor, Recorder, or Councilman, shall not have been eligible, as herein prescribed, or shall refuse or fail to take the oath or affirmation required under this act, within the time prescribed, the council for the time being shall declare his said office vacant, and proceed to fill such vacancy as provided in section eleven of this act.

Sec. 18. Presiding officer of common council.

The Council shall be presided over at its meetings by the Mayor, or in his absence, by one of the Councilmen, chosen by a majority of the Council.

Sec. 19. Record of proceedings of common council, and entries therein; voting by presiding officer.

The Council shall cause to be kept in a well-bound book, an accurate record of its proceedings, bylaws, acts and orders, which shall be fully indexed, and open to the inspection of the citizens of the town. The proceedings of each meeting shall be read and corrected at the succeeding meeting, and signed by the person presiding for the time being. Upon the call of any member, the yeas and nays on any question shall be called and recorded in the journal. The presiding officer may vote as a member of the council, and in all cases of a tie, the person at the time presiding at the council shall have the casting vote.

Sec. 20. Enumerated powers of common council; jurisdiction for one mile beyond corporate limits, except for taxation.

The council shall have power to resurvey said town, and for this purpose may employ a competent engineer, (which officer may be elected by order of the Council), and prescribe his duties, term of office and amount of compensation; to open new streets, and extend, straighten, widen and repair old streets and alleys; to curb and pave streets, sidewalks and gutters for public use, and to alter, improve and light the same; and shall have control of all avenues for public use in said town; to have the same kept in good order and free from obstructions on or over them; to regulate and determine the width of all streets, sidewalks and public alleys; to order and direct the curbing and paving of all sidewalks and footways for public use in said town, to be kept in good order by the owners or occupants of the adjacent property; to control the construction and repairs of all bridges and culverts, the opening and construction of all ditches, drains and gutters; to widen, deepen and clear the same of stagnant water and filth, and to determine at whose expense the same shall be done; to purchase, lay off and appropriate public grounds and control the use of same; to provide, contract for and take care of all public buildings proper to the town; to provide for the regular building of houses, or other structures; to cause the removal of unsafe walls or buildings; to prevent injury or annoyance to the public or individuals, from anything dangerous, offensive or unwholesome; to abate, or cause to be abated, anything which, in the opinion of a majority of the whole council, shall be a nuisance; to regulate the keeping of gunpowder and other combustibles; to provide, in or near the town, place for the burial of the dead, and to regulate interments in the town, and provide for shade and ornamental trees; to provide for the making of division fences, and for draining of lots by proper drains and ditches; to make regulations guarding against danger or damages from fires; to provide for the poor of the town; to organize one or more fire companies, and provide the necessary apparatus, tools, implements, engines, or any of them, for their use; to provide a sufficient revenue for the said town, and appropriate the same to its expenses,

and to provide for annual assessments of taxable persons and property in the town; to adopt rules for the transaction of business, and for the government and regulation of its own body; to promote the general welfare of the town, and to protect the persons and property of the citizens therein; to appoint such officers as they may deem proper, including a sergeant, treasurer, assessor and overseer of the poor; to define their powers, prescribe their duties, fix their term of service and compensation; require and take from them bonds, with such sureties, and in such penalty, as the council may determine, conditioned for the true and faithful performance of their duties, and remove them at pleasure; (all bonds taken by the Council shall be made payable to the town by its corporate name); to regulate and provide for the weighing and measuring of hay, coal, wood and other articles sold, or for sale, in said town, and to regulate the transportation thereof through the streets; to establish and regulate markets; to prescribe the time for holding the same, and what articles shall be sold only in said markets; to protect places of divine worship; to lay off the town into three or more wards, and to appoint and publish the places of holding town elections; to erect, or authorize or prohibit the erection of gas works or waterworks in or near the town; to prevent injuries to or pollution of the same, or danger to the water and healthfulness of the town; for all which purposes, except that of taxation, the Council shall have jurisdiction for one mile beyond the corporate limits of said town.

Sec. 21. Implementation of powers; fines and penalties; commitment of offenders to county jail.

To carry into effect these enumerated powers, and all others conferred upon the said town or its Council, expressly or by implication, in this or any other acts of the Legislature, the Council shall have power to adopt and enforce all needful orders, bylaws and ordinances, not contrary to the constitution and laws of the State, and to prescribe, impose and enforce reasonable fines and penalties, including imprisonment under judgment and orders of the Mayor of said Town, or the person lawfully exercising his functions; and the council, with the



consent of the supervisors of Jackson County, entered of record, may have the right to use the jail of said county, for any purpose necessary to the administration of its affairs.

Sec. 22. Authority of common council as to landings, wharfs, etc., and to appoint wharfmasters and collect duties on vessels using wharfs.

It shall be lawful for the Council to establish and construct landings, wharves and docks, on any ground which does or shall belong to said town, and to repair, alter or remove any building, wharf or dock which has been or shall be so constructed, and to lay and collect a reasonable duty on vessels coming to or using the same; and it shall have power to pass and enforce such ordinances as shall be proper, to keep the same in good order and repair; to preserve peace and good order at the same, and regulate the manner in which they shall be used; it shall have power to appoint as many wharfmasters for said town as may appear necessary; to prescribe their duties, fix their fees, and make all regulations in respect to such officers as they may deem proper.

***Case law reference:***

*For a case holding this section to be constitutional and that the state may, by statute (this section) confer upon a municipal corporation the right to authorize the establishment of public wharves and landings within its corporate limits without compensation to the owner of the fee, see Ravenswood v. Flemings, 22 W. Va. 52 (1883), discussed with approval in Barre v. Fleming, 29 W. Va. 314 (1887) at pages 324 and 325.*

Sec. 23. Annual estimate of expenditures, and order for levy.

The Council shall cause to be annually made up and entered upon its journal, an account and estimate of all sums which ought to be paid within one year, and it shall order a town levy of so much as, in its opinion, is the amount which may be raised from licenses and other sources.

Sec. 24. Persons and property subject to tax levy, and limitation on levies.

The levy so ordered shall be upon all male persons, residents of said Town, over the age of twenty-one years. The Council shall have power to tax all dogs and all real and personal estate within said town subject to State and county taxes; provided, that the tax so levied does not exceed one dollar on every one hundred dollars of value of unimproved lots, (or lots upon which there is no building), and seventy-five cents on every one hundred dollars of value of other real and personal property, or two dollars per head on each taxable person, or two dollars per head on dogs; provided, further, that dogs known as "rat terriers" shall not be taxed.

Sec. 25. Licensing powers of common council; authority of council to prohibit granting of license to sell alcoholic beverages in area for two miles beyond corporate limits.

Whenever anything for which a State license is required, is to be done within said town, the Council may require a town license to be had for doing the same, and may impose a tax thereon for use of the town; and the Council may, in any case, require from the person licensed a bond, with such sureties, and in such penalty, and with such conditions, as it may deem proper; and may revoke such license at any time, if the condition of said bond be broken. And no license to sell strong or spirituous liquors, or wine, beer, ale, porter, or drinks of like nature, within said town, or within two miles of the corporate limits thereof, shall be granted by the supervisors

of Jackson County, unless the persons applying therefor shall produce to said supervisors the certificate of the council of said town, of its consent to the granting of such license.

Sec. 26. Powers, duties and liabilities of sergeant.

The Sergeant shall have power to collect the town taxes, fines and levies, and shall have power, one month after he shall have received the books of the

assessor of said town, to distrain and sell therefor, in like manner as a sheriff may distrain and sell for State taxes, and shall, in all other respects, have the same powers as a sheriff to enforce the payment and collection thereof, and the said Sergeant shall have power to exercise, within the corporate limits of said town, all duties that a constable can legally exercise, in regard to the collection of claims, executing and levying process, and he shall be entitled to the same compensation therefor, except in case of the arrest of any person violating any of the ordinances of the Council. Upon the conviction of such person, he shall be entitled to one dollar for such arrest, to be taxed in the costs against the person so convicted; and he and his securities shall be liable to all fines, penalties and forfeitures that a constable is legally liable to, for any failure or dereliction in his said office, to be recovered in the same manner, and before the same courts, that said fines, penalties and forfeitures are now recovered against constables.

Sec. 27. Liens created for town taxes, assessments, fines and penalties; enforcement and priority of liens.

There shall be a lien on real estate within said corporation for the town taxes assessed thereon, from the commencement of the year in which they are assessed, and for all other assessments, fines and penalties assessed or imposed upon the owners thereof by the authorities of said town, from the time the same are so assessed or imposed, which lien shall be enforced by the Council in the same manner as the lien for taxes for county purposes is now enforced; the lien aforesaid shall have priority over all other liens, except for taxes due the state.

Sec. 28. Power of common council to prohibit performances, etc., deemed injurious to morals or good order of town.

The council may prohibit any theatrical or other performance, show or exhibition, which it may deem injurious to the morals or good order of the town.

Sec. 29. Bonds of sergeant and treasurer.

The Council shall have power to require and take from the Sergeant and Treasurer bonds, with sureties satisfactory to the Council, in such penalty as it may deem sufficient, except that as to the Sergeant it shall not be for a penalty less than five thousand dollars; and said bond shall be conditioned for the faithful and true performance of his duties as Sergeant, and for the collecting and accounting for and payment of the taxes, fines and other money of the town which shall come into his hands, or which it shall be his duty to collect, at such times and to such persons as the council may order. The Treasurer's bond shall be conditioned for the faithful performance of his duties as treasurer, and that he will faithfully pay over and account for all money that shall come into his hands as treasurer, when and as he shall be thereto required by the council.

Sec. 30. Powers, duties and compensation of mayor.

The mayor shall be the chief executive officer of the town, and shall take care that all bylaws, ordinances and orders of the council are faithfully executed; he shall be ex officio a conservator and justice of the peace within the town, and shall within the same exercise all the powers and duties vested in justices, except that he shall have no jurisdiction as such in civil cases; he shall have control of the police of the town, and may appoint special police officers whenever he deems it necessary; and it shall be his duty especially to see that the peace and good order of said town are preserved, and that the persons and property therein are protected; and to this end he may cause the arrest and detention of all riotous and disorderly persons in said town, before issuing his warrant therefor; he shall have power to issue executions for all fines, penalties and costs imposed by him, or he may require the immediate payment thereof, and in default of such payment, he may commit the party in default to the jail of Jackson County, until the fine or penalty and costs be paid, to be employed during the term of his imprisonment, which, in such case, shall not exceed thirty days. He

shall from time to time recommend to the council such measures as he may deem needful to the welfare of the town. He shall receive a compensation for his services, to be fixed by the council, which shall not be increased or diminished during the term for which he was elected.

Sec. 31. Powers, duties and compensation of recorder.

The duty of the Recorder shall be to keep the journal of the proceedings of the council, and have charge of and preserve the records of the town; he shall attend the Mayor in all examinations, receive and issue his orders, swear witnesses and perform all the duties of a clerk in the council and mayor's court; he shall receive a compensation for the services, to be fixed by the council, which shall not be increased or diminished during the term for which he shall have been elected.

Sec. 32. Additional powers, duties and liabilities of sergeant; compensation of sergeant.

It shall be the duty of the town sergeant to collect the taxes, fines and other income and revenue of the town, so specified in his bond, and to account and pay the same to the treasurer at such time as the council may order, and it shall be his duty at least once in every six months, during his continuance in office, and oftener if fines and other claims in his hands for collection, and return a list of such as he shall have been unable to collect by reason of insolvency, to which list he shall make oath that he has used due diligence to collect the same but has been unable to do so. The council shall, if it be satisfied he could not have collected the said claim by use of due diligence, allow them. But if the council shall be of the opinion that, by the use of due diligence on the part of said sergeant, he could have collected the said claims or any part of them, then he shall be charged with such as he might have collected. The said sergeant shall do and perform all the other acts pertaining to the office of sergeant of a corporation and of a public officer

and constable within said town, and as such shall have the same powers, duties, fees and liabilities as are by law prescribed to a constable. He shall, for his services, receive such compensation as shall be fixed by the council.

Sec. 33. Payment of town monies to treasurer, and disbursement thereof.

All moneys belonging to said town shall be paid over to the treasurer, none of which shall be paid out by him except as the same shall have been apportioned and ordered to be paid by the council, and the said treasurer shall pay the same upon the certificate of the recorder, or, in his absence, upon the certificate of the mayor.

Sec. 34. Recourse of town upon failure of treasurer to account for and pay over town money.

If the said treasurer shall fail to account for and pay over all or any moneys that shall come into his hands, when thereto required by the council, it shall be lawful for the council, in the corporate name of the town, by motion before the circuit court of Jackson County, after ten days previous notice, to recover from the treasurer and his sureties or their personal representatives, any sum that may be due from said treasurer to said town.

Sec. 35. Recourse of town upon failure of sergeant to collect account for town revenues.

If the sergeant shall fail to collect, account for and pay over all the taxes, fines and other revenue of the town in his hands for collection, according to the conditions of his bond, it shall be lawful for the council to recover the same by motion, in the corporate name of the town, before the said circuit court, after ten days' notice, against the said sergeant and his sureties, or any or either of them, his or their executors or administrators.

Sec. 36. Exemption of town and taxable persons and property therein from expenses and liability in certain cases.

The said town and the taxable persons and property therein shall be exempt from all expense or liability for the construction or repairs of roads or bridges, or other taxes for county or township purposes, except free school tax, outside the corporate limits of said town, for any year in which it shall appear that said town shall, at its own expense, provide for its own poor and keep its streets in order.

Sec. 37. Saving provisions.

All rights, privileges and properties of said town heretofore acquired and possessed, owned and enjoyed by any act now in force, shall continue undiminished and remain vested in said town under this act; and all laws, ordinances, acts and resolutions of council, now in full force, and not inconsistent with this act, shall be and continue in full force and effect until regularly repealed by a council elected as provided under this act.

Sec. 38. Division of town into wards; ward regulations; elections within wards.

The council shall divide said town into wards as soon as may be after taking control thereof, having regard to territory and population and streets of the town, and shall adopt all needful and just ward regulations, whether general or special, for the good of the citizens thereof; it shall authorize street expenditures in the several wards, as equity and justice shall demand, and may authorize the collection of a special tax in any ward of the town for a specified purpose within such ward, when requested so to do by a majority of the voters thereof; shall regulate the suffrage of said town, so that voters of each ward may have a voting place therein, and shall appoint proper officers to attend each place of voting, who shall make return of the votes there taken, in such manner and at such time as the council may prescribe. Whenever, in the opinion of the council, it becomes necessary to lay

off said town into more than three wards the said council shall so lay it off and apportion the councilmen of said town so that each ward shall be equally represented in the council, and may increase or diminish the number of councilmen.

Sec. 39. Employment and safekeeping of city prisoners, etc.

The council shall provide for the employment and safekeeping of persons who may be committed for default in payment of fines, penalties or costs under this act, and who are otherwise unable to discharge the same, by putting them to work for the benefit of the town; shall keep on hand an ample supply of necessary material for the same, and shall provide all necessary tools, implements, fixtures and facilities for the immediate employment of any and all such persons; shall fix a reasonable rate per diem as wages to be allowed every such person till such fine and costs against him are discharged, and the recorder shall keep an account of all fines and penalties so collected and expended.

Sec. 40. Charter always subject to modification or repeal by legislature.

This act shall at all times be subject to modification or repeal at the pleasure of the Legislature.

Sec. 41. Oath of office of all town officers.

All of the officers of said corporation shall take the oath required by chapter one hundred and six, of the acts of eighteen hundred and sixty-three.



**TITLE I: GENERAL PROVISIONS**

Chapter

**10. GENERAL PROVISIONS**



## **CHAPTER 10: GENERAL PROVISIONS**

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### **§ 10.01 TITLE OF CODE.**

All ordinances of a permanent and general nature of the city, as revised, codified, rearranged, renumbered and consolidated into component codes, titles, chapters and sections, shall be known and designated as the “The Code of Ravenswood, West Virginia,” for which designation “Code of Ordinances,” “Codified Ordinances” or “Code” may be substituted. Code title, chapter and section headings do not constitute any part of the law as contained in the code.

## **§ 10.02 INTERPRETATION.**

Unless otherwise provided herein, or by law or implication required, the same rules of construction, definition and application shall govern the interpretation of this code as those governing the interpretation of state law.

## **§ 10.03 APPLICATION TO FUTURE ORDINANCES.**

All provisions of Title I compatible with future legislation, shall apply to ordinances hereafter adopted amending or supplementing this code unless otherwise specifically provided.

## **§ 10.04 CONSTRUCTION OF CODE.**

(A) This code is a codification of previously existing laws, amendments thereto and newly enacted laws. Any previously existing law or amendment thereto reenacted by this code shall continue in operation and effect, as if it had not been repealed by this code. All rules and regulations adopted under laws reenacted in this code shall remain in full force and effect unless repealed or amended subsequent to the enactment of this code.

(B) Any appropriation repealed and reenacted by this code is continued only for the period designated in the original enactment of that appropriation.

(C) The numerical order and position of sections in this code does not resolve a conflict between two or more sections.

(D) Any irreconcilable conflict between sections shall be resolved by reference to the dates that the sections were originally enacted. The section most recently enacted supersedes any conflicting section or division.

(E) All references within a section of this code to any section of previously existing laws refer to the numbers in the original enactment.

(F) (1) The numerical designations and descriptive headings assigned to the various titles, chapters, subchapters or sections of this code, as originally enacted, or as added by amendment, are not law, and may be altered by the compilers of this or any subsequent codification, in any official publication, to more clearly indicate its content. These descriptive headings are for organizational purposes only and do not affect the meaning, application or construction of the law they precede.

(2) Each note following a section of this code is for reference purposes only and is not a part of the section.

(G) All references to any section of this code refer to all subsequent amendments to that section unless otherwise provided.

## **§ 10.05 RULES OF INTERPRETATION; DEFINITIONS.**

(A) *Rules of interpretation.* This code shall be construed by the following rules unless the construction is plainly repugnant to the legislative intent or context of the provision.

(1) Words and phrases shall be taken in their plain, ordinary and usual sense. Technical words and phrases having a peculiar and appropriate meaning in law shall be understood according to their technical import.

(2) Words imputing joint authority to three or more persons shall be construed as imputing authority to a majority of persons, unless otherwise declared in the section giving the authority.

(3) Where a section requires an act to be done which, by law, an agent or deputy may perform in addition to the principal, the performance of the act by an authorized deputy or agent is valid.

(4) Words denoting the masculine gender shall be deemed to include the feminine and neuter genders; words in the singular shall include the plural and words in the plural shall include the singular; the use of a verb in the present tense shall include the future, if applicable.

(B) *Definitions.* For the purpose of this code of ordinances, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

**CITY.** The City of Ravenswood, West Virginia.

**COMMON COUNCIL.** The Common Council of Ravenswood, West Virginia.

**COMPUTATION OF TIME.** The time within which an act is to be done shall be computed by excluding the first and including the last day; and if the last day be Sunday or a legal holiday, that shall be excluded.

**COUNTY.** Jackson County, West Virginia.

**HIGHWAY.** Bridges, roads and streets unless otherwise expressly provided.

**LAND.** *LAND* and *REAL ESTATE* include rights and easements of an incorporal nature.

**MAYOR.** The words “the mayor” include any person lawfully exercising his authority.

**MONTH.** One calendar month.

**NUMBER.** A word importing the singular number only may extend and be applied to several persons or things as well as to one person or thing; a word importing the plural number only may extend and be applied to one person or thing, as well as to several persons or things.

**OATH.** Includes an affirmation in all cases in which, by law, an affirmation may be substituted for an oath, and in such cases the words *SWEAR* and *SWORN* shall be equivalent to the words *AFFIRM* and *AFFIRMED*.

**OFFICIAL TIME STANDARD.** Whenever certain hours are named in this code or other ordinance, they shall mean standard time or daylight saving time, whichever may be in current use in the city.

**OWNER.** The word *OWNER*, applied to any property, shall include any part owner, joint owner, tenant in common, joint tenant or tenant by the entirety, of the whole or a part of such property.

**PERSON.** Extends to and includes person, persons, firm, corporation, copartnership, trustee, lessee or receiver. Whenever used in any clause prescribing and imposing a penalty, the terms *PERSON* or *WHOEVER* as applied to any unincorporated entity shall mean the partners or members thereof, and as applied to corporations, the officers or agents thereof.

**PERSONAL PROPERTY.** Includes every species of property except real property, as herein defined.

**PRECEDING and FOLLOWING.** When referring to sections or divisions in this code, the sections or divisions next following or next preceding that in which the words occur, unless some other section is designated.

**PROPERTY.** Includes real estate and personal property.

**REAL PROPERTY.** Includes lands, tenements and hereditaments.

**SIDEWALK.** That portion of a street between the curb line, or the lateral lines of a roadway where there is no curb, and the adjacent property line, intended for the use of pedestrians.

***SIGNATURE* or *SUBSCRIPTION*.** Includes a mark when the person cannot write.

***STATE*.** The words “the state” or “this state” shall mean the State of West Virginia.

***STREET*.** The entire paved, or otherwise improved, width between the boundary lines of every way publicly maintained and open to the use of the public for purposes of vehicular travel.

***TENANT* or *OCCUPANT*.** The words ***TENANT*** or ***OCCUPANT*** applied to a building or land, shall include any person who occupies the whole or part of such building or land, whether alone or with others.

***TIME*.** Words used in the past or present tense include the future as well as the past and present.

***WRITTEN* and *IN WRITING*.**

(a) Printing, lithographing or other modes of representing words and letters.

(b) Where the written signature of a person is required, the terms mean the proper handwriting of the person or the person’s mark.

***YEAR*.** One calendar year unless otherwise expressly provided.  
(1970 Code, § 1-2) (Am. Ord. passed 11-27-2000)

#### **§ 10.06 SEVERABILITY.**

(A) If any section of this code now enacted or subsequently amended or its application to any person or circumstances is held invalid, the invalidity does not affect other sections that can be given effect without the invalid section or application.

(B) Except in the case of a section or amendment to this code containing a nonseverability provision, each division or part of every section is severable. If

any portion or application of a section is held invalid, the invalidity does not affect the remainder of the section unless:

(1) The remainder is so essentially and inseparably connected with and so dependent upon the invalid provision or application that it cannot be presumed that the remainder would have been enacted without the invalid provision or application; or

(2) The remainder is incomplete and incapable of being executed in accordance with the legislative intent without the invalid provision or application.

(C) This section applies to every section of this code regardless of whether a section was enacted before or after the passage of this code.

#### **§ 10.07 REFERENCE TO OTHER SECTIONS.**

Whenever in one section, reference is made to another section hereof, reference shall extend and apply to the section referred to as subsequently amended, revised, recodified or renumbered unless the subject matter is changed or materially altered by the amendment or revision.

#### **§ 10.08 REFERENCE TO OFFICES; NAME DESIGNATIONS.**

(A) *Reference to offices.* Reference to a public office or officer shall be deemed to apply to any office, officer or employee of the city exercising the powers, duties or functions contemplated in the provision, irrespective of any transfer of functions or change in the official title of the functionary.

(B) *Name designations.* Whenever any ordinance or resolution of the Council refers to any board, bureau, commission, division, department, officer, agency, authority or instrumentality of any government, and that name designation is incorrectly stated; or at the time of the effective date of that ordinance or subsequent thereto, the rights, powers,



duties or liabilities placed with that entity are or were transferred to a different entity; then the named board, bureau, commission, department, division, officer, agency, authority or instrumentality, whether correctly named in the ordinance at its effective date or not, means that correctly named entity, or the entity to which the duties, liabilities, powers and rights were transferred.

#### **§ 10.09 ERRORS AND OMISSIONS.**

If a manifest error is discovered, consisting of the misspelling of any words; the omission of any word or words necessary to express the intention of the provisions affected; the use of a word or words to which no meaning can be attached; or the use of a word or words when another word or words was clearly intended to express the intent, the spelling shall be corrected and the word or words supplied, omitted or substituted as will conform with the manifest intention, and the provisions shall have the same effect as though the correct words were contained in the text as originally published. No alteration shall be made or permitted if any question exists regarding the nature or extent of the error.

#### **§ 10.10 REASONABLE TIME.**

(A) In all cases where an ordinance requires an act to be done in a reasonable time or requires reasonable notice to be given, reasonable time or notice shall be deemed to mean the time which is necessary for a prompt performance of the act or the giving of the notice.

(B) The time within which an act is to be done, as herein provided, shall be computed by excluding the first day and including the last. If the last day be a Saturday, Sunday or a state holiday, it shall be excluded.

#### **§ 10.11 REPEAL OR MODIFICATION OF CODE SECTION.**

When a section of this code is repealed which repealed a former section or law adopted prior to the enactment of this code, the former section or law is not revived unless it so expressly provides. The repeal of any section shall not extinguish or release any penalty, forfeiture or liability incurred under the section unless the repealing section so expressly provides. The section shall be treated as still remaining in force for the purposes of sustaining any proper action or prosecution for the enforcement of the penalty, forfeiture or liability.

#### **§ 10.12 LIMITATION PERIODS.**

The running of any period of limitations or any requirement of notice contained in any law, whether applicable to civil causes or proceedings, to the prosecution of offenses or for the recovery of penalties and forfeitures, contained in a law repealed and reenacted by this code shall not be affected by the repeal and reenactment. All suits, proceedings and prosecutions for causes arising or acts committed prior to the effective date of this code may be commenced and prosecuted with the same effect as if this code had not been enacted.

#### **§ 10.13 ORDINANCES UNAFFECTED.**

All ordinances of a temporary or special nature and all other ordinances pertaining to subjects not embraced in this code shall remain in full force and effect unless herein repealed expressly or by necessary implication.

#### **§ 10.14 ORDINANCES WHICH AMEND OR SUPPLEMENT CODE.**

(A) If the legislative body shall desire to amend any existing chapter or section of this code, the chapter or section shall be specifically repealed and a new chapter or section, containing the desired amendment, substituted in its place.

(B) Any ordinance which is proposed to add to the existing code a new chapter or section shall indicate, with reference to the arrangement of this code, the proper number of the chapter or section. In addition to the indication thereof as may appear in the text of the proposed ordinance, a caption or title shall be shown in concise form above the ordinance.

#### **§ 10.15 SECTION HISTORIES; STATUTORY REFERENCES.**

(A) As histories for the code sections, the specific number and passage date of the original ordinance, and the most recent three amending ordinances, if any, are listed following the text of the code section. Example: (Ord. 10, passed 5-13-60; Am. Ord. 15, passed 1-1-70; Am. Ord. 20, passed 1-1-80; Am. Ord. 25, passed 1-1-85)

(B) (1) If a statutory cite is included in the history, this indicates that the text of the section reads substantially the same as the statute. Example: (W.V. Code, § 50-18-70) (Ord. 10, passed 1-17-80; Am. Ord. 20, passed 1-1-85)

(2) If a statutory cite is set forth as a “statutory reference” following the text of the section, this indicates that the reader should refer to that statute for further information. Example:

#### **§ 39.01 PUBLIC RECORDS AVAILABLE.**

This municipality shall make available to any person for inspection or copying all public records

unless otherwise exempted by state law.

***Statutory reference:***

*For provisions concerning the inspection of public records, see W.V. Code, §§ 29B-1-1 through 29B-1-7*

**§ 10.16 PRESERVATION OF PENALTIES, OFFENSES, RIGHTS AND LIABILITIES.**

(A) All offenses committed under laws in force prior to the effective date of this code shall be prosecuted and remain punishable as provided by those laws. This code does not affect any rights or liabilities accrued, penalties incurred or proceedings begun prior to the effective date of this code.

(B) The liabilities, proceedings and rights are continued. Punishments, penalties or forfeitures shall be enforced and imposed as if this code had not been enacted. In particular, any agreement granting permission to utilize highway rights-of-way, contracts entered into or franchises granted, the acceptance, establishment or vacation of any highway and the election of corporate officers shall remain valid in all respects, as if this code had not been enacted.

**§ 10.99 GENERAL PENALTY.**

(A) Whenever, in the codified ordinances or in any ordinance of the municipality, any act is prohibited or is made or declared to be unlawful or an offense, or whenever the doing of any act is required or the failure to do any act is declared to be unlawful, where no specific penalty is otherwise provided, whoever violates any such provision shall be fined not more than \$500 or imprisoned not more than 30 days, or both; provided, however, such penalty shall not exceed the maximum penalty provided by state law for the commission of a misdemeanor which is the same or similar to the act proscribed by the city. If an excessive penalty should be imposed, then such excessive penalty shall automatically be reduced to the maximum penalty which could legally be imposed and the judgment shall be construed as originally being only in such reduced amount.

(B) All ordinances related to driving under the influence of alcohol or intoxicating liquor shall be subject to the same penalties as the penalties prescribed by the State of West Virginia for the same offenses.

***Statutory reference:***

*Authority to impose penalties, see W.V. Code*

*§§ 8-11-1 and 8-12-2(11)*

*Maximum penalty permitted, see W.V. Code*

*§ 8-11-1*

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**TITLE III: ADMINISTRATION**

Chapter

**30. GENERAL PROVISIONS**

**31. COMMON COUNCIL**

**32. CITY OFFICERS**

**33. BOARDS, COMMISSIONS AND AUTHORITIES**

**34. POLICE DEPARTMENT**

**35. FIRE DEPARTMENT**

**36. MUNICIPAL COURT**

**37. RESERVED**

**38. ELECTIONS**

**39. CIVIL DEFENSE AND CIVIL EMERGENCIES**



## CHAPTER 30: GENERAL PROVISIONS

### Section

- |       |   |                       |
|-------|---|-----------------------|
| 30.01 | Pay of city officers and employees;<br>salaries   | 30.02                 |
|       |   | Residency requirement |
|       | 30.03 Official bonds; persons handling<br>city funds; persons authorized to carry<br>firearms |                       |
| 30.04 | Right of entry of city personnel upon<br>private property for purpose of<br>inspection        |                       |
| 30.05 | Fiscal reports, accounts and the like   |                       |
| 30.06 | Payment of money out of treasury<br>must be by order  |                       |
| 30.07 | Competitive bidding; when required,<br>publication of notice                                  |                       |
| 30.08 | Transmitting and receiving bids;<br>bonds; specifications                                     |                       |
| 30.09 | Recording of city liens for<br>assessments, fines, penalties and<br>charges                   |                       |
| 30.10 | Wharfs and boat landing places  |                       |
| 30.11 | Security deposit for city services<br>customers   |                       |

### **§ 30.01 PAY OF CITY OFFICERS AND EMPLOYEES; SALARIES.**

(A) The Common Council shall by ordinance fix or cause to be fixed the salary or compensation of every city officer and employee; provided, that the salary of any officer serving for a fixed term of office shall not be increased or diminished during such term. (1970 Code, § 2-1)

(B) The base salary and compensation for the city officers and employees shall be as determined from time to time by the Common Council.  
(1970 Code, § 2-2)

#### ***Statutory reference:***

*For similar state law, see Va. Code, § 8-5-12.20*

## § 30.02 RESIDENCY REQUIREMENT.

This section establishes a residency requirement that:

(A) All personnel hereafter employed or appointed by the city, whether hourly or salaried and whether full-time or part-time, must be a bona-fide resident of the city or Jackson County except at the time of appointment or employment when they need not be residents of the city or Jackson County, but shall establish residence in the city or Jackson County within 6 months;

(B) All officers and employees of the city hereafter to be employed by the city are required as a condition of their continued employment to have their place of abode in the city or Jackson County and be bona-fide residents therein, except as otherwise provided by this section. A ***BONA-FIDE RESIDENT***, for this purpose of this section, means a person having a permanent domicile within the city or Jackson County and one which has not been adopted with the intention of again taking up or claiming a previous residence acquired outside of the city or Jackson County limits. The use of a post office box or nonpersonal residence for mailing purposes shall not be considered a bona-fide residence;

(C) All employees or officers now holding positions in the city service not residing within the city or Jackson County shall, if they change their primary place of residence or domicile, establish and maintain their primary place of residence and domicile within the city or Jackson County at all times thereafter during their continued service with the city;

(D) Failure of any officer or employee or appointee of the city to comply with the provisions of this section shall be cause for that employee's removal or discharge from the city service.  
(Ord. passed 4-3-2001)

**§ 30.03 OFFICIAL BONDS; PERSONS HANDLING CITY FUNDS; PERSONS AUTHORIZED TO CARRY FIREARMS.**

(A) *Persons handling city funds.*

(1) Every officer, employee or agent of the city who receives, handles or has custody and control of more than \$100 of city funds at any time shall, before assuming his duties as such officer, employee or agent, give bond, payable to the city, with corporate surety, in such amount as shall be determined by the Common Council, and conditioned upon the faithful performance of his duties, to give a true accounting of all city funds received or handled by him or coming within his custody, and payment thereof to the city; provided, that the bond of the Treasurer shall be in the amount of not less than \$10,000, the bond of the City Clerk shall be not less than \$10,000 and the bond of the Assistant City Clerk shall be not less than \$10,000; and provided further, that during any period when the offices of City Clerk and City Treasurer are held by the same person, the bond for such person shall be in the amount of not less than \$10,000.

(B) The Common Council may adopt a system of blanket faithful performance and honesty bonding as an alternative to the individual bonds provided in



division (A) of this section; provided, that the amounts as specified in division (A) of this section for the officers named therein shall remain the same as therein specified.

(C) The City Attorney shall approve all bonds required by this section with respect to their form and legality; the premiums thereon shall be paid by the city. The Common Council shall approve all bonds required by this section with respect to their sufficiency. All bonds required by this section shall be in the custody of the City Clerk.

(1970 Code, § 2-2)

(D) *Persons authorized to carry firearms.*

(1) All officers, employees and agents of the city who, in the line of duty, are required or authorized to carry firearms, shall give bond, payable to the city, with corporate surety, in such amount not less than \$10,000 as may be specified by the Common Council, and conditioned upon the payment of any judgment or decree which may be rendered against them for the negligent or unlawful use or handling of such firearm and to save the city harmless from all claims and demands whatsoever for the negligent or unlawful use or handling of such firearm.

(2) The City Attorney shall approve all bonds required by this section with respect to their form and legality; the premiums thereon shall be paid by the city. The Common Council shall approve all bonds required by this section with respect to their sufficiency. All bonds required by this section shall be in the custody of the City Clerk.

(1970 Code, § 2-3)

***Charter reference:***

*For charter provision as to bond of Treasurer,*

*see Charter, § 29*

***Statutory reference:***

*Authority of city to require bonds of city officers,*

*see W.V. Code, § 8-12-5(46)*

*Authority of Common Council to enact this*

*section, see W.V. Code, § 8-12-15*

**§ 30.04 RIGHT OF ENTRY OF CITY PERSONNEL UPON PRIVATE PROPERTY FOR PURPOSE OF INSPECTION.**

Whenever any officer or employee of the city is required or authorized by statute, this code or any other ordinance or resolution or rules, regulations or orders issued pursuant thereto, in order to carry out his duties thereunder, to enter any premises or vehicle for the purpose of making an inspection thereof or of anything contained therein, such officer or employee shall have the right to enter any such premises or vehicle in accordance with law at any reasonable time in pursuance of such duties; provided, that this section shall not be construed as purporting to authorize any unreasonable search and seizure prohibited by the Constitution of West Virginia, Article III, § 6.

(1970 Code, § 2-4)

***Statutory reference:***

*Authority of Common Council to enact this section, see W.V. Code, § 8-12-15*

**§ 30.05 FISCAL REPORTS, ACCOUNTS AND THE LIKE.**

(A) *To conform to fiscal year; definition.* All fiscal reports, settlements, accounts and statements of the city and of city officers shall conform to the fiscal year, which begins on July 1 of each calendar year and terminates at the close of business June 30 of the next succeeding calendar year.

(1970 Code, § 2-5)

(B) *Form of budget system and financial accounts and records.* The budgeting system and financial accounts and records of the city shall be as prescribed by the Common Council in conformity with W.V. Code, Chapter 6, Art. 9; the form and manner of keeping thereof shall be as approved or prescribed by the State Tax Commissioner in his ex

officio capacity as chief inspector and supervisor of public offices. (1970 Code, § 2-6)

***Statutory reference:***

*Applicability of W.V. Code, Chapter 6, Art. 9 to municipalities, see W.V. Code, § 8-13-18*

*Approval of municipal fiscal records by chief inspector and supervisor of public officers, see W.V. Code, § 6-9-6*

*For similar state law, see W.V. Code, § 8-13-17*

**§ 30.06 PAYMENT OF MONEY OUT OF TREASURY MUST BE BY ORDER.**

(A) No money shall be paid out of the Treasury except upon an order duly signed by the city officers authorized by ordinance, resolution or order of the Common Council to sign such order; provided, that such signatures may be made by means of such mechanical or electrical device as the Common Council may select. Such mechanical or electrical device for the making of such signatures shall be safely kept in the office of the Treasurer or City Clerk so that no one shall have access thereto except the officers authorized to sign such orders, the Treasurer or City Clerk and such of their respective officers and employees as may be authorized to have access thereto.

(B) If the officer or officers charged with the responsibility of keeping the aforementioned mechanical or electrical device wilfully or by neglect permit or make it possible for an unauthorized individual to sign the name of any officer authorized to sign such order by the use of any such mechanical or electrical device upon any warrant, order or check, such officer or officers shall be personally liable, jointly and severally, for the amount of any loss resulting to the city.

(C) If any individual other than the individuals authorized so to do shall sign the name of any city officer authorized to sign such order by the use of any such mechanical or electrical device, or otherwise, upon any warrant, order or check; or if any individual shall utter or attempt to employ as true such forged warrant, order or check, knowing the

same to be forged, he shall be subject to prosecution by the prosecuting attorney of Jackson County and, upon conviction, shall be subject to the penalties provided in W.V. Code, § 8-13-22.  
(1970 Code, § 2-7)

***Charter reference:***

*Payment of city money to Treasurer and  
disbursement thereof by him, see Charter, § 33*

***Statutory reference:***

*For similar state law, see W.V. Code, § 8-13-22*

**§ 30.07 COMPETITIVE BIDDING; WHEN REQUIRED, PUBLICATION OF NOTICE.**

Every contract for the purchase of materials, supplies and equipment by the city shall be by competitive bidding and shall not be approved and let until publication of notice of the intent to so contract and to invite sealed bids shall have first been advertised once per week for a period of 2 successive weeks in 1 newspaper of general circulation in the city, the last of which publications shall occur no less than 5 days prior to the meeting at which the bids are opened and read; provided, however, that the foregoing requirements of publication and competitive bidding shall not apply nor be required in respect to any contract or purchase of materials, supplies and equipment of or for a gross sum of less than \$15,000; and further provided, that this section shall not in any way preclude, be applicable to, or prohibit the city from utilizing, adopting and providing for the centralized purchasing of materials, supplies and equipment, including, but not limited to motor vehicles and agreements with the State of West Virginia and/or any of its political subdivisions and statutory public corporations, as set forth in W.V. Code, Chapter 8, Art. 12, § 10; provided, further, that whenever any such contract for the purchase of materials, supplies and equipment involves the primary use and expenditure of funds derived from federal assistance government, the expenditure of which funds is governed by competitive bidding standards prescribing a higher minimum amount than

\$15,000, then the Common Council may resolve to adopt and use such higher minimum standard.  
(1970 Code, § 2-8) (Am. Ord. passed 4-17-1984)

***Statutory reference:***

*For state law as to availability to municipalities  
of facilities of state division of purchases, see  
W.V. Code, § 5A-3-9*

**§ 30.08 TRANSMITTING AND RECEIVING BIDS; BONDS; SPECIFICATIONS.**

The form and manner of transmitting and receiving bids under the provisions of § 30.06, the amount of deposit or performance bond, if any, to accompany such bids, the terms, specifications, reservation of right to reject bids or waive irregularities therein shall be determined by the Common Council prior to each respective advertisement for bids and, insofar as practical, be stated in the published notice.  
(1970 Code, § 2-9)

**§ 30.09 RECORDING OF CITY LIENS FOR ASSESSMENTS, FINES, PENALTIES AND CHARGES.**

Liens arising under the provisions of City Charter § 27 for assessments, fines, penalties and charges due the city may be presented to the County Clerk, for recording, by any appropriate city officer.  
(1970 Code, § 2-10)

**§ 30.10 WHARFS AND BOAT LANDING PLACES.**

The Common Council may by resolution prescribe rules and regulations governing the maintenance and use of the city wharves and boat landing places, and any such resolution may include a schedule of wharfage and other fees to be paid the

city for the use of any city wharf or boat landing place.  
(1970 Code, § 2-11)

***Charter reference:***

*Authority of Common Council relating to  
wharves, see Charter, § 22*

***Statutory reference:***

*Authority of Common Council to adopt ordinance  
by resolution to control and administer the  
waterfront of the city and to operate and  
maintain wharves and public landings, see  
W.V. Code, § 8-12-5(9)*

**§ 30.11 SECURITY DEPOSIT FOR CITY SERVICES CUSTOMERS.**

(A) Every new customer for city services shall deposit with the City Clerk's office before such services shall be furnished the sum to be set from time to time by Common Council resolution or ordinance, which sum shall be held by the city as and for security or credit against any unpaid city services billed to the customer and which sum may be applied against such unpaid services by the city at any time after 30 continuous calendar days of nonpayment and notification of same to the customer.

(B) The security deposit hereunder shall be deposited by the city to an interest bearing insured account after a banking institution selected by the Common Council and shall be refunded, in whole or part, with accrued interest, to the customer, within a reasonable time following the cessation of city services to such customer and determination of the account status of such customer.

(C) City services includes water, sewage, refuse collection, street maintenance, fire and police protection, recreation and street lighting and such other public services as may from time to time be furnished by the city to its residents and businesses.  
(Ord. passed 1-20-1998)

## CHAPTER 31: COMMON COUNCIL

### Section

- 31.01 Journal; minutes of proceedings
- 31.02 Regular meetings
- 31.03 Special meetings
- 31.04 Presiding officer
- 31.05 Certain persons to attend meetings
- 31.06 Sergeant-at-arms
- 31.07 Mayor and Recorder may vote; tie votes
- 31.08 Roll call
- 31.09 Reading and correction of minutes of preceding meeting; when reading of minutes may be omitted
- 31.10 Manner of voting; when roll call vote may be demanded, to be entered of record
- 31.11 Vote to overrule decision of the chair
- 31.12 Cases requiring enactment of ordinance
- 31.13 Procedure for adoption of ordinances; exceptions in cases of emergency
- 31.14 Recommitment of proposed ordinances and resolutions
- 31.15 Charges against any officer
- 31.16 Order of business and rules of procedure
- 31.17 Committees of Council

### **Charter reference:**

*Enumeration of powers of Common Council, see Charter, §§ 20, 22;*  
*Exercise of corporate powers, see Charter, § 4;*  
*Oath of members of Common Council, see Charter, § 16;*  
*“Municipal authorities” and composition of the Common Council, see Charter, §§ 2, 3;*  
*Persons and property subject to tax levy and limitation on levies, see Charter, § 24*

### **Statutory reference:**

*General corporate powers of Common Council, see W.V. Code, §§ 8-13-1 and 8-12-5 through 8-12-19*  
*Oath of office, see W.V. Code, § 8-5-8*  
*Taxation powers, see W.V. Code, § 8-13-1*  
*Qualifications of members of the Common Council, see W.V. Code, § 8-5-7(c)*

### **§ 31.01 JOURNAL; MINUTES OF PROCEEDINGS.**

The Recorder shall keep, in a well-bound book, an accurate record of all proceedings, ordinances, orders, bylaws, acts, resolutions, rules and regulations of the Common Council, which shall be fully indexed and open to inspection by any citizen of the city and by any one who is required to pay taxes or assessments to the city. (1970 Code, § 2-12)

***Statutory reference:***

*Requirement that Common Council keep journal  
of proceedings and the like, see W.V. Code,  
§ 8-9-2*

*Requirement that Recorders keep such journal,  
see W.V. Code, § 8-10-3*

### **§ 31.02 REGULAR MEETINGS.**

The Common Council shall meet in the Council Chamber in the City Hall on the first and third Tuesday of each month at 7:00 p.m.; provided, that should the day of a regular meeting as herein provided fall on a holiday, the Mayor may fix another



day for such meeting or, in his discretion, cancel such meeting.  
(1970 Code, § 2-13) (Am. Ord. passed 1-3-2002; Am. Ord. 8-5-2003)

### **§ 31.03 SPECIAL MEETINGS.**

The Mayor, or in his absence, the Recorder, or any two Council members, shall have power to call special meetings of the Common Council by reasonable notice to each member.  
(1970 Code, § 2-14)

### **§ 31.04 PRESIDING OFFICER.**

The Mayor, or in his absence, the Recorder, shall take the chair at the hour appointed for the Common Council to meet and having called the members to order shall preserve decorum and enforce a strict observance of the rules of the Council, and in the absence of both the Mayor and Recorder, by one of the Council members selected by a majority of the Council present necessary to constitute a quorum.  
(1970 Code, § 2-15)

***Charter reference:***

*Presiding officer, see Charter, § 18;*

*Quorum, see Charter, § 15*

***Statutory reference:***

*For state law as to presiding officer of municipal governing bodies and quorum, see W.V. Code, § 8-9-1*

### **§ 31.05 CERTAIN PERSONS TO ATTEND MEETINGS.**

The City Attorney, the City Clerk and the Treasurer shall attend all regular meetings of the Common Council except when excused, and the Common Council may require the presence of any city officer or employee at any meeting, regular or special.  
(1970 Code, § 2-16)

#### **§ 31.06 SERGEANT-AT-ARMS.**

The Common Council may provide, by resolution or by motion duly carried and entered of record in the journal, that the Chief of Police designate a police officer to attend meetings of the Common Council as Sergeant-at-Arms for the purpose of preserving order and the execution of orders given him by the Common Council through its presiding officer.  
(1970 Code, § 2-17)

#### **§ 31.07 MAYOR AND RECORDER MAY VOTE; TIE VOTES.**

The Mayor and Recorder shall have votes as members of the Common Council, and, in case of a tie, the presiding officer shall cast the tie-breaking vote, unless he has previously voted.  
(1970 Code, § 2-18)

***Statutory reference:***

*For similar state law, see W.V. Code, § 8-9-2*

#### **§ 31.08 ROLL CALL.**

At each meeting of the Common Council the first order of business shall be the calling of the roll of members, in alphabetical order, and the names of those answering “present” shall be noted in the journal as present and all other members shall be noted therein as absent.  
(1970 Code, § 2-19)

#### **§ 31.09 READING AND CORRECTION OF MINUTES OF PROCEEDING MEETING; WHEN READING OF MINUTES MAY BE OMITTED.**

At each meeting of the Common Council the journal of the preceding meeting shall be read, and corrected if necessary, and shall be signed by the presiding officer of the meeting at the time of its approval; provided, that the reading of the journal of the proceedings of the last meeting may be dispensed

with by majority vote of the Common Council if the members thereof have received and examined a copy of the journal or a synopsis thereof prior to the meeting at which the journal is signed.  
(1970 Code, § 2-20)

***Statutory reference:***

*For similar state law, see W.V. Code, § 8-9-3*

**§ 31.10 MANNER OF VOTING; WHEN ROLL CALL VOTE MAY BE DEMANDED, TO BE ENTERED OF RECORD.**

All questions shall be put in this form: “All that are in favor, say aye.” “Contrary, No;” and in doubtful cases, or when an affirmative vote of a specific number of the members present is necessary to carry the proposition, the presiding officer may direct or any member call for a division; and, in any case, upon the call of any member, the yeas and nays shall be taken and recorded in the journal.  
(1970 Code, § 2-21)

***Statutory reference:***

*For state law that, upon call of any member, the yeas and nays shall be taken and recorded in journal, see W.V. Code, § 8-9-3*

**§ 31.11 VOTE TO OVERRULE DECISION OF THE CHAIR.**

In all appeals from a decision of the presiding officer, it shall require a vote of two-thirds of the members present to reverse such decision.  
(1970 Code, § 2-22)

**§ 31.12 CASES REQUIRING ENACTMENT OF ORDINANCE.**

(A) In the following enumerated cases, the action of the Common Council shall, except where otherwise provided in the Code of West Virginia, be by ordinance:

- (1) Levying taxes or providing for the collection of fees of any kind;

- (2) Requiring a license to do business;
- (3) Relating to offenses and penalties;
- (4) Authorizing the issuance of bonds or other forms of indebtedness;
- (5) Providing for a public improvement;
- (6) Providing for the purchase of private property by the city or for the sale of property belonging to the city;
- (7) Laying out or vacating a public street, avenue, road, alley or way;
- (8) Relating to planning and zoning;
- (9) Granting franchises to public utilities;
- (10) Providing for a contractual or other agreement with another jurisdiction.

(B) The action of the Common Council shall also be by ordinance in any other case in which an ordinance is required by the provisions of the Code of West Virginia or the Ravenswood City Code.  
(1970 Code, § 2-23)

***Statutory reference:***

*For similar state law, see W.V. Code, § 8-11-3*

**§ 31.13 PROCEDURE FOR ADOPTION OF ORDINANCES; EXCEPTIONS IN CASES OF EMERGENCY.**

All ordinances shall be adopted in accordance with the following requirements, except where different or additional requirements are specified in any provision of this code, in which event such other different or additional requirements shall be applicable.

(A) A proposed ordinance shall be read by title at not less than 2 meetings of the Common Council with at least 1 week intervening between each

meeting, unless a member of the Common Council demands that the ordinance be read in full as demanded.

(B) At least 5 days before the meeting at which a proposed ordinance, the principal object of which is the raising of revenue for the city, is to be finally adopted, the Common Council shall cause notice of the proposed adoption of such proposed ordinance to be published as a Class I-0 legal advertisement in compliance with the provisions of W.V. Code, Chapter 59, Art. 3, and the publication area for such publication shall be this city. The notice shall state the subject matter and general title or titles of such proposed ordinances, the date, time and place of the proposed final vote on adoption, and the place or places within the city where such proposed ordinance may be inspected by the public. A reasonable number of copies of the proposed ordinance shall be kept at such place or places and be made available for public inspection. Such notice shall also advise that interested parties may appear at the meeting and be heard with respect to the proposed ordinance.

(C) A proposed ordinance shall not be materially amended at the same meeting at which finally adopted.

(D) The Common Council may enact an ordinance without complying with the rules prescribed in this section only:

(1) In the case of a pressing public emergency making procedure in accordance with the provisions of this section dangerous to the public health, safety or morals, and by affirmative vote of two-thirds of the members elected to the Common Council; or

(2) When otherwise provided in the Code of West Virginia. The nature of any such emergency shall be set out in full in the ordinance.

(1970 Code, § 2-24)

**Statutory reference:**

*Adoption of codes by reference, see W.V. Code,*

*§ 8-11-4(b)*

*For similar state law, see W.V. Code, § 8-11-4*

### **§ 31.14 RECOMMITMENT OF PROPOSED ORDINANCES AND RESOLUTIONS.**

Any proposed ordinance or resolution, after committee report thereon, if any, may be recommitted to committee at any time before its final passage.  
(1970 Code, § 2-25)

### **§ 31.15 CHARGES AGAINST ANY OFFICER.**

Charges against any officer of the city shall be preferred in writing and verified, and having been read, shall be laid upon the table until the next regular meeting or referred to a committee for investigation.  
(1970 Code, § 2-26)

### **§ 31.16 ORDER OF BUSINESS AND RULES OF PROCEDURE.**

The Common Council may, by resolution, adopt rules for its own government, regulation and transaction of business. Such rules may provide for the compulsory attendance of members at meetings and penalties for unexcused tardiness or absence; the order of business and parliamentary rules at meetings; the attendance of witnesses and the production of books and papers at hearings held by the Common Council and its committees; and such other matters as the Common Council may deem appropriate; provided, that all such rules shall be consistent with state law and this code.  
(1970 Code, § 2-27)

#### ***Statutory reference:***

*Authority of Common Council to adopt rules for the transaction of business and the government and regulation of the Common Council, see W.V. Code, § 8-12-5(45)*

*Authority of Common Council to investigate and inquire into all matters of concern to the city or its inhabitants, see W.V. Code, § 8-12-5(48)*

### **§ 31.17 COMMITTEES OF COUNCIL.**

The Common Council may, by resolution, provide for such standing committees and special committees as it may from time to time deem appropriate for the efficient transaction of its business and may provide for the appointment of committee members, the jurisdiction of committees as to subject matter, the powers and duties of committees and the manner of making committee reports, and such other matters as may be deemed appropriate. (1970 Code, § 2-28)





## CHAPTER 32: CITY OFFICERS

*Oath of office for public officers, see West Virginia Constitution, Art. 4, § 5; also W.V. Code, § 8-5-8*

### Section

- 32.01 Appointment and term of nonelective officers
- 32.02 Oath required of all city officers
- 32.03 Delegation of authority
- 32.04 Mayor
- 32.05 Recorder to be paid for each regular or special Council meeting attended
- 32.06 Deputy Recorder
- 32.07 City Clerk
- 32.08 Treasurer; ex officio treasurer
- 32.09 City Attorney
- 32.10 City Engineer
- 32.11 City Maintenance Supervisor

### § 32.01 APPOINTMENT AND TERM OF NONELECTIVE OFFICERS.

All nonelective officers of the city shall be appointed by the Mayor with the approval of the Common Council, and they shall serve for an indefinite term, unless otherwise provided by state law, this code or other ordinance as to any particular office.

(1970 Code, § 2-29)

#### **Statutory reference:**

*Authority of Common Council to determine the appointment, number, positions and the like of appointive officers, see W.V. Code, § 8-5-11*  
*Term of appointive officers, see W.V. Code, § 8-5-9*

### § 32.02 OATH REQUIRED OF ALL CITY OFFICERS.

All city officers shall take the following oath before entering upon their duties, which shall be certified and filed with the City Clerk:

“I, H. B., do solemnly swear, that I will support the Constitution of the United States and the Constitution of the State of West Virginia, and that I will truly, faithfully and impartially discharge the duties of the office upon which I am about to enter to the best of my skill and judgment.”

(1970 Code, § 2-30)

#### **Statutory reference:**

### § 32.03 DELEGATION OF AUTHORITY.

Except in such cases wherein the deputation of authority is prohibited or limited by law, acts required to be performed by designated city officers may be performed by their deputies, assistants or agents duly authorized by their principals for such purposes. (1970 Code, § 2-31)

### § 32.04 MAYOR.

The Mayor shall be the chief executive officer of the city, and he shall see that all provisions of this code and other ordinances, orders, bylaws, acts, resolutions, rules and regulations of the Common Council are faithfully executed. He shall have control of the police of the city and may appoint special police officers whenever he deems it necessary, except when otherwise provided by law, and it shall be his duty especially to see that the peace and good order of the city are preserved and that persons and property therein are protected; to this end he may cause the arrest and detention of all riotous and disorderly individuals in the city before a warrant for

arrest is issued. He shall, from time to time, recommend to the Common Council such measures as he may deem needful for the welfare of the city; he shall have such other powers and perform such other duties as may be prescribed for him by law, this code or other ordinance or resolution of the Common Council.

(1970 Code, § 2-32)

***Charter reference:***

*Powers and duties of the Mayor, see Charter,  
§ 30*

***Statutory reference:***

*Powers and duties of Mayors of municipal  
corporations, see W.V. Code, § 8-10-1*

**§ 32.05 RECORDER TO BE PAID FOR EACH REGULAR OR SPECIAL COUNCIL MEETING ATTENDED.**

The Recorder shall be paid the sum of \$75 for each Council meeting, regular or special, attended.  
(1970 Code, § 2-33) (Ord. passed 4-20-2004)

***Statutory reference:***

*Powers and duties of Recorder generally, see  
W.V. Code, § 8-10-3*

**§ 32.06 DEPUTY RECORDER.**

The City Clerk shall be Deputy Recorder for all purposes except:

(A) Exercising any power or authority of the office of Mayor whenever the Mayor is unable, because of illness or absence from the city, to perform the duties of such office;

(B) Voting in the Common Council at any time;

(C) Countersigning checks, drafts or warrants drawn against the City Treasury or any depository of the city.

(1970 Code, § 2-34)

### **§ 32.07 CITY CLERK.**

The City Clerk shall be custodian of all city records, books, documents, correspondence and other instruments and papers for which the custody is not otherwise provided, and he shall certify to all true copies thereof for persons entitled thereto by law and shall charge therefor such fees as may be prescribed by resolution or order of the Common Council. The City Clerk shall issue all city licenses and permits, except as may be provided otherwise; he shall serve as recording secretary to the Mayor and the Common Council. The City Clerk may administer oaths and take acknowledgments in all cases wherein an oath or acknowledgment is required by this code or other ordinance or resolution of the Common Council; he shall have such other powers and perform such other duties as may be provided for the office of City Clerk by state law, this code or other ordinance, resolution or order of the Common Council.

(1970 Code, § 2-35)

### **§ 32.08 TREASURER; EX OFFICIO TREASURER.**

(A) *Treasurer.*

(1) *General.*

(a) Except as may be otherwise provided herein or by state law, the Treasurer shall collect all taxes, fines, special assessments and other money due the city and shall receive from all city officers and employees money paid to them for the city, and all city money so collected or received by him shall be deposited promptly in the depositories designated for such purpose by the Common Council. He shall not pay out any money of the city except as it shall have been apportioned and ordered by the Common Council to be paid, and he shall sign all checks, drafts and warrants against the city treasury or any depository of the city. The Treasurer shall have such other powers and perform such other duties as may be prescribed for such office by state law, this code or other ordinance, resolution or order of the Common Council.

(b) The Treasurer shall keep complete and accurate fiscal accounts and records as required by law and in the manner prescribed by the State Tax Commissioner and other state officers having authority to prescribe therefor and in accordance with directives from the Common Council; he shall render such reports as may be required of him by law, this code or other ordinance, resolution or order of the Common Council.

(c) The Treasurer shall have power to collect all debts owing to the city by appropriate civil action in any court of competent jurisdiction.  
(1970 Code, § 2-36)

(2) *Preparation, publication and disposition of financial statements.*

(a) The Treasurer, within 4 weeks after the beginning of each fiscal year, shall prepare on a form to be prescribed by the State Tax Commissioner and cause to be published a sworn statement revealing:

1. The receipts and expenditures of the city during the previous fiscal year arranged under descriptive headings;

2. The name of each person who received more than \$50 from any fund during the previous fiscal year, together with the amount received and the purpose for which paid; and

3. All debts of the city, the purpose for which each debt was contracted, its due date, and to what date the interest thereon has been paid. Such statement shall be published as a Class I legal advertisement in compliance with the provisions of W.V. Code, Chapter 59, Art. 3 and the publication area for such publication shall be the city.

(b) The City Clerk shall transmit to any resident of the city, upon request, a copy of any published statement for the fiscal year designated, supplemented by a document listing the names of each person who received less than \$50 from any fund during such fiscal year and showing the amount paid to each and the purpose for which paid.

(c) The statement required by subsection (a) of this section shall be sworn to by the Treasurer, the Mayor and two Council members. As soon as practicable following the close of the fiscal year, a copy of any statement herein required shall be filed by the City Clerk with the State Tax Commissioner, and the Clerk of the County Court of the county and the Clerk of the Circuit Court of Jackson County.  
(1970 Code, § 2-37)

(B) *Ex officio treasurer.* The Mayor, with the approval of the Common Council, may designate the City Clerk or some other appropriate city officer to be ex officio treasurer. (1970 Code, § 2-38)

***Statutory reference:***

*Authority of Treasurer to distrain for debts due city, see W.V. Code, § 8-13-15*  
*Penalties for failure of city officers to perform their prescribed duties thereunder, see W.V. Code, § 8-13-23*

**§ 32.09 CITY ATTORNEY.**

The City Attorney shall be the legal adviser and counselor of the Common Council and all other officers of the city. He shall represent the city in all courts in all proceedings in which the city, or any city officer or employee in his official capacity, is a party, and he shall perform such duties incidental to his office as may be required of him by the Common Council. The City Attorney shall receive fees for services as may be agreed upon by the Common Council and the City Attorney.  
(1970 Code, § 2-39)

**§ 32.10 CITY ENGINEER.**

The City Engineer shall maintain accurate records of all street grades within the city, make all necessary surveys for the laying out of streets and for other city projects for which a survey is required, and perform all engineering duties required by the city at any time. He shall have such other powers and perform such other duties as may be prescribed for municipal engineers by state law, this code or other

ordinance and as may be required of him from time to time by the Common Council.  
(1970 Code, § 2-40)

#### **§ 32.11 CITY MAINTENANCE SUPERVISOR.**

The City Maintenance Supervisor shall be responsible for the maintenance of all real and personal property of the city and, except as otherwise provided, for the supervision of such property, including buildings, equipment and grounds. He shall superintend city construction projects, have general supervision over the city waterworks and city sewage treatment plant and the sewer system, be in charge of all work crews, and recommend the employment and discharge of all personnel over whom he has authority; he shall have such other powers and perform such other duties as may be provided for his office by this code or other ordinance, resolution or order of the Common Council.  
(1970 Code, § 2-41)

## **CHAPTER 33: BOARDS, COMMISSIONS AND AUTHORITIES**

### Section

#### ***Planning and Zoning Commission***

- 33.01 Composition; qualification of members
- 33.02 Nomination, appointment, term and compensation of members; vacancies; expenses of members
- 33.03 Powers, duties, limitations and liabilities
- 33.04 Donations and expenditure thereof; Planning and Zoning Commission Fund
- 33.05 Appropriation and disbursement of general funds

#### ***Recreation Commission***

- 33.20 Created; composition; compensation and expenses of members
- 33.21 Appointment and term of members; filling vacancies
- 33.22 Organizational meetings; officers; bylaws; rules and regulations for conduct of public recreation
- 33.23 Powers and duties
- 33.24 Superintendent of Recreation and other personnel of the recreation system
- 33.25 Submittal of annual budget; gifts and bequests
- 33.26 Reports to Common Council

#### ***Historic Landmark Commission***

- 33.40 Composition
- 33.41 Power and authority
- 33.42 Restrictions on use of Registered Landmark property
- 33.43 Notice to Assessor
- 33.44 Coordination with West Virginia Historical Society and West Virginia Department of Culture and History

#### ***Development Authority***

- 33.55 Creation

- 33.56 Powers
- 33.57 Composition
- 33.58 Appointments
- 33.59 Vacancies
- 33.60 Conveyances
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#### ***Sanitary Board***

- 33.75 Created; purposes
- 33.76 Composition; appointment and term of appointive members
- 33.77 Filling vacancies
- 33.78 Officers
- 33.79 Compensation and bond of members
- 33.80 Powers and duties

### ***PLANNING AND ZONING COMMISSION***

#### **§ 33.01 COMPOSITION; QUALIFICATION OF MEMBERS.**

The Planning and Zoning Commission shall consist of 8 members, all of whom shall be freeholders and residents of the city, who shall be qualified by knowledge and experience in matters



pertaining to the development of the city, and the membership shall include representatives in business, industry and labor. Three-fifths of all members of the Planning and Zoning Commission shall have been residents of the city for at least 10 years prior to their nomination. One member of the Planning and Zoning Commission shall be a member of an administrative department of the city, and 1 member of the Commission shall be a member of the Common Council.

(1970 Code, § 2-42)

***Statutory reference:***

*Similar state law, see W.V. Code, § 8-24-5*

*Urban and rural planning and zoning, see*

*W.V. Code, § 8-24-1*

**§ 33.02 NOMINATION, APPOINTMENT, TERM AND COMPENSATION OF MEMBERS;  
VACANCIES; EXPENSES OF MEMBERS.**

(A) The members of the Planning and Zoning Commission shall be nominated by the Mayor and confirmed by the Common Council. The terms of the Council member and administrative department member shall be coextensive with the terms of office to which they have, respectively, been elected or appointed, unless the Mayor and the Common Council, at the first regular meeting of each year, appoint others to serve as the city's representatives. The remaining members of the Commission shall serve respectively for terms of 3 years. Vacancies shall be filled by appointment for the unexpired term only. Members of the Planning and Zoning Commission shall serve without compensation, but shall be reimbursed for actual expenses incurred in the performance of their official duties.

(B) Two members (other than the Council and administrative department members) shall be appointed at the first meeting of the Common Council in January of each year.

(1970 Code, § 2-43)

### **§ 33.03 POWERS, DUTIES, LIMITATIONS AND LIABILITIES.**

The Planning and Zoning Commission shall have all the powers, rights, duties, immunities, privileges and responsibilities and shall be subject to all limitations and liabilities relating to municipal planning commissions as provided in W.V. Code, Chapter 8, Art. 24.  
(1970 Code, § 2-44)

### **§ 33.04 DONATIONS AND EXPENDITURE THEREOF; PLANNING AND ZONING COMMISSION FUND.**

All donations for Planning and Zoning Commission purposes shall be deposited with the city in a special nonreverting Planning and Zoning Commission Fund to be available for expenditure by the Commission for the purposes designated by the donors. The City Treasurer shall draw warrants against such special nonreverting fund only upon vouchers signed by the President and Secretary of the Planning and Zoning Commission.  
(1970 Code, § 2-45)

### **§ 33.05 APPROPRIATION AND DISBURSEMENT OF GENERAL FUNDS.**

The Common Council shall appropriate funds to carry out the duties of the Planning and Zoning Commission. The money so appropriated shall be disbursed by the City Treasurer upon vouchers signed by the President or Secretary of the Commission and approved by the Mayor.  
(1970 Code, § 2-46)

***Statutory reference:***

*Requirement that Common Council appropriate funds to carry out the duties of the Planning and Zoning Commission, see W.V. Code, § 8-24-15*

## ***RECREATION COMMISSION***

### **§ 33.20 CREATED; COMPOSITION; COMPENSATION AND EXPENSES OF MEMBERS.**

There is established a Recreation Commission, which shall be appointed by the Mayor with the approval of the Common Council, and shall consist of 7 members plus an advisory member, who shall be a member of the Common Council, and all of whom shall serve in this capacity without pay excepting only that they shall be reimbursed for their out-of-pocket expenses ordinarily and necessarily incurred in line of duty as members of the Commission.

(1970 Code, § 2-47)

#### ***Statutory reference:***

*Authority of city to maintain and operate recreational parks, playgrounds and other recreational facilities for public use and to proceed in accordance with W.V. Code, § 10-2-1, see W.V. Code, § 8-12-5(37)  
Public recreation and playgrounds, see W.V. Code, §§ 10-2-1 through 10-2-5*

### **§ 33.21 APPOINTMENT AND TERM OF MEMBERS; FILLING VACANCIES.**

(A) Members of the Recreation Commission shall serve for a term of 5 years and until their successors are appointed and qualified, except that the advisory member shall serve only during such time as he continues to be a member of the Common Council. Each member shall take office on the first day of March in the year of his appointment.

(B) During the month of February in the year 1971, and each 5 years thereafter, 3 members shall be appointed; during the month of February in the year 1974, and each 5 years thereafter, 2 members shall be appointed; and during the month of February in the year 1975, and each 5 years thereafter, 2 members shall be appointed; and an advisory member shall be appointed each time a vacancy occurs in such office, for a term concurrent with his continuous tenure in the Common Council but not exceeding 5 years.

(C) Vacancies in the membership of the Recreation Commission occurring other than by the expiration of terms shall be filled by the Mayor, with the approval of the Common Council, for the unexpired term.  
(1970 Code, § 2-48)

### **§ 33.22 ORGANIZATIONAL MEETINGS; OFFICERS; BYLAWS; RULES AND REGULATIONS FOR CONDUCT OF PUBLIC RECREATION.**

As soon as may be practicable in the month of March in each year fixed in § 33.21 for the regular appointment of members, the Recreation Commission shall meet and organize by electing 1 of their members Chairperson and such other officers as may be necessary. The Commission shall have the power to adopt bylaws for the transaction of its business and rules and regulations for the proper conduct of public recreation for the city.

(1970 Code, § 2-49)

### **§ 33.23 POWERS AND DUTIES.**

The Recreation Commission shall provide, conduct and supervise public playgrounds, parks, play fields, indoor recreation centers and other recreation areas and facilities owned or controlled by the city. It may make recommendations to the Common Council for construction of any form of recreation or cultural activity that will

employ the leisure time of the people in a constructive and wholesome manner. It may conduct such activities on properties under its own control, on public properties with the consent of the Council or other authority thereof and on private properties with the consent of the owners.  
(1970 Code, § 2-50)

#### **§ 33.24 SUPERINTENDENT OF RECREATION AND OTHER PERSONNEL OF THE RECREATION SYSTEM.**

The Recreation Commission may, with the approval of the Common Council, appoint or designate someone to act as Superintendent of Recreation at a fixed salary or wage, and such other personnel, paid or volunteer, as the Commission deems proper, subject to the availability of funds for such purposes. The person so appointed as Superintendent of Recreation shall be trained and qualified for the work.  
(1970 Code, § 2-51)

#### **§ 33.25 SUBMITTAL OF ANNUAL BUDGET; GIFTS AND BEQUESTS.**

Annually, not later than the first day of March, the Recreation Commission shall submit a budget to the Common Council for its approval. The Commission may also solicit or receive any gifts or bequests of money or other personal property or any donation to be applied, principal or interest, for either temporary or permanent use of playgrounds or other recreational purposes, all with approval and consent of the Common Council.  
(1970 Code, § 2-52)

#### **§ 33.26 REPORTS TO COMMON COUNCIL.**

The Recreation Commission shall make an annual report to the Common Council and such other reports as from time to time may be requested by Council.  
(1970 Code, § 2-53)

### ***HISTORIC LANDMARK COMMISSION***

#### **§ 33.40 COMPOSITION.**

The Commission shall:

(A) Be composed of 5 members appointed by the Mayor of the city to a term commencing on the first day of August in the following manner:

(1) One member shall be a member of the Common Council, shall be appointed by said Mayor and shall serve a term of 1 year;

(2) Two members shall be appointed by the Mayor from the city at large, their initial appointments being for a period of 2 years and all subsequent appointments being for a period of 1 year;

(3) Two members shall be appointed by the Mayor from the city at large, their initial appointments being for a period of 1 year and all subsequent appointments being for a period of 1 year;

(B) Notify the Common Council of any vacancy in the membership of the Commission and the vacancy shall be filled in the same manner as the original appointment for the balance of the original term;

(C) Not receive any salary for their service as Commissioners, but may be reimbursed for all reasonably necessary expenses actually incurred in the performance of their duties, which will have the prior approval of the Common Council;

(D) Select 1 of their members as Chairperson and 1 of their members as Secretary, who shall keep accurate records of the proceedings of the Commission;

(E) Fix a time and place for holding regular meetings, and unless changed by a unanimous vote of the Commission shall meet at least once each month. Special meetings of the Commission may be called by the Chairperson or by at least 2 members upon written request to the Secretary. The Secretary shall send notice of any special meeting, including the time, date and place of said meeting, at least 2 days in advance of such special meeting. However, written notice shall not be required if the date, time, and place of a special meeting has been fixed at a regular meeting or if all members are in attendance when the special meeting is requested;

(F) Not take any action unless authorized by a majority of the Commission members at a properly

constituted regular or special meeting. A majority of the members shall constitute a quorum;

(G) Count the vote of each member thereof equally in all matters that shall come before the Commission;

(H) File for public record with the Clerk of the city minutes of all meetings within 60 days of the date such meeting was held;

(I) Be authorized and empowered, within the limits of funds available, therefore to employ assistants, technical personnel, consultants, and such other employees as are necessary to discharge its duties and responsibilities as hereafter set forth.

(Ord. passed 7-17-1990)

### **§ 33.41 POWER AND AUTHORITY.**

The Commission shall have plenary power and authority, within the jurisdictional limits of the city, and within the limits of available funds, to:

(A) Make a survey of, and designate as Historic Landmarks, buildings, structures and sites which constitute the principal historical and architectural sites which are of local, regional, statewide, or national significance. No building, structure, or site shall be deemed to be a historic one unless it has been prominently identified with, or best represents, some major aspect of the cultural, political, economic, military, or social history of the city, county, state, or nation, or has had a major relationship with the life of an historic personage or event representing some major aspect of the cultural, political, economic, military, or social history of the city, county, state, or nation, or has had a major relationship with the life of an historic personage or event representing some major aspect of, or ideals related to, the history of the locality, region, state, or nation; or unless it represents a significant structure within an area designated as an historic area of the city by designating action of the Commission. In the case of buildings or structures which are to be so designated, they shall embody the principal or unique features of

an architectural type or demonstrate the style of a period of our history or method of construction or serve as an illustration of the work of a master builder, designer or architect whose genius influenced the period in which he worked or has significance in current times;

(B) Prepare a register of buildings, structures, and sites which meet the requirements of division (A) of this section, publish lists of such properties and, with the consent of the property owners, inspect such properties from time to time and publish a register thereof from time to time setting forth appropriate information concerning the registered buildings, structures and sites;

(C) With the consent of the property owners, certify and mark with appropriately designed markers, buildings, structures and sites which it has registered;

(D) With the consent of the property owners begin and maintain a photographic register of buildings, structures, and sites which it has registered with photographic records of each so-registered building, structure and site being made at least each 3 years;

(E) Establish standards for the care and management of Certified Landmarks and withdraw such certification for failure to maintain the standards so prescribed;

(F) Acquire by purchase, lease, or gift and administer Registered Landmarks and easements and interests therein, both real and personal;

(G) Lease or sell property so acquired under terms and conditions designed to ensure the proper preservation of the Landmark in question;

(H) Establish Historic Districts of Registered Landmarks, utilizing the same guidelines set forth in division (A) above, and designate the area thereof by appropriate markers;

(I) Identify Historical Districts for Registered Landmarks and encourage the city to adopt rules and regulations for the preservation of historical or architectural values;

(J) Prepare and place Historical Markers on or along the highway or street closest to the location which is intended to be identified by such marker;

(K) Seek the advice and assistance of individuals, groups and departments and/or agencies of government who or which are conducting Historical Preservation Programs and coordinate the same insofar as possible;

(L) Seek and accept gifts, bequests, endowments, and funds from any and all sources for the accomplishment of the functions of the Commission;

(M) Adopt rules and regulations concerning the operation of the Commission, the functions and responsibilities of its officers, employees, assistants and other personnel and such other matters as may be necessary to carry out the purposes of this order; and

(N) Adopt such other rules and regulations as may be deemed necessary to effectuate the purposes of this order, but no such rules and regulations shall be inconsistent with the provisions of any plan of any planning commission of the city, such rules being adopted only after approval by the then current Common Council.  
(Ord. passed 7-17-1990)

#### **§ 33.42 RESTRICTIONS ON USE OF REGISTERED LANDMARK PROPERTY.**

Whenever the Commission with the consent of the property owner certifies property as being a Registered Landmark, it may seek and obtain from such property owner an agreement as to such restrictions upon the use of the property as the Commission finds are reasonable and are calculated to perpetuate and preserve the features which led it to designate such property as an Historical Landmark. All such agreements between the Commission and the



property owner shall be in writing, and when duly signed and acknowledged, shall be recorded in the office of the Clerk of the County Commission and when so recorded shall be notification to the Assessor of the restrictions therein set forth.  
(Ord. passed 7-17-1990)

#### **§ 33.43 NOTICE TO ASSESSOR.**

When the Commission establishes an Historic District, it shall notify the Assessor of the fact of such establishment and the boundaries of the district, together with the restrictions which are applicable to the properties located within such district which have been mutually agreed upon by such Commission and the owners of property within such District. The agreement shall be recorded in the same manner as the recordation of agreements between the Commission and owners of Designated Landmarks. The Assessor shall take such factors into consideration in assessing the properties therein.  
(Ord. passed 7-17-1990)

#### **§ 33.44 COORDINATION WITH WEST VIRGINIA HISTORICAL SOCIETY AND WEST VIRGINIA DEPARTMENT OF CULTURE AND HISTORY.**

The Commission shall cooperate and coordinate its activities with the West Virginia Historical Society and the West Virginia Department of Culture and History, with the view of developing a unified program for the identification, study, preservation and protection of all historic buildings, structures and sites within the city limits.  
(Ord. passed 7-17-1990)

### ***DEVELOPMENT AUTHORITY***

#### **§ 33.55 CREATION.**

There is formed, created and established a municipal development authority, to be known as the

City of Ravenswood Development Authority (the “Authority”). In accordance with the Act, the Authority shall be a public agency and corporation and have perpetual existence.  
(Ord. passed 3-5-2002)

#### **§ 33.56 POWERS.**

The Authority shall have all powers granted by the Act and any other powers granted to it by applicable law.  
(Ord. passed 3-5-2002)

#### **§ 33.57 COMPOSITION.**

The Board of the Authority shall consist of 15 members, who shall be appointed by the Common Council by resolution. Five of the original members shall be named for terms of 1 year; 5 of the original members shall be named for terms of 2 years; and 5 of the original members shall be named for terms of 3 years.  
(Ord. passed 3-5-2002; Am. Ord. passed 6-18-2002)

#### **§ 33.58 APPOINTMENTS.**

At the conclusion of the terms of the appointment of each member of the Authority, the Common Council shall appoint a successor for a term of 3 years. All members shall be residents of the city.  
(Ord. passed 3-5-2002)

#### **§ 33.59 VACANCIES.**

If any member of the Board of the Authority resign, die or for any reason cease to be a member of the Board, the Common Council shall appoint another individual to fill the unexpired portion of the term of such member.  
(Ord. passed 3-5-2002)

### **§ 33.60 CONVEYANCES.**

The Authority shall not convey or transfer any real property conveyed to the Authority by the city without the prior written consent of the Common Council; provided that the Authority may encumber any of its real property to secure payment of any indebtedness of the Authority.  
(Ord. passed 3-5-2002)

### **§ 33.61 INDEBTEDNESS.**

No indebtedness of any kind or nature of the Authority shall constitute an indebtedness of the city, the county, or any agency thereof, except the Authority. No indebtedness or obligations incurred by the Authority shall give rise to any right against any member of the Common Council or any member of the Authority.  
(Ord. passed 3-5-2002)

### **§ 33.62 MEETINGS.**

The Authority shall meet initially, upon the call of the Mayor, for the purpose of handling organizational matters, including, but not limited to, the adoption of the rules of procedure, in the form attached hereto and shall act upon such other matters as the Mayor shall determine.  
(Ord. passed 3-5-2002)

## ***SANITARY BOARD***

### **§ 33.75 CREATED; PURPOSES.**

There shall be and there is created in and for the city a Sanitary Board for the custody, supervision, control, administration, operation and maintenance of the city sewer system, all as provided by W.V. Code, Chapter 16, Art. 13.  
(1970 Code, § 21-10)

**§ 33.76 COMPOSITION; APPOINTMENT AND TERM OF APPOINTIVE MEMBERS.**

The Sanitary Board shall be composed of the Mayor and 2 persons appointed by the Common Council. Appointed members shall serve for a term of 3 years and until their successors are duly appointed and qualified. One member shall be appointed in January of 1971 and every 3 years thereafter, and 1 member shall be appointed in January of 1972 and every 3 years thereafter. Appointed members shall take office on the first day of February in the year of their appointment.  
(1970 Code, § 21-11)

**§ 33.77 FILLING VACANCIES.**

Vacancies occurring in the appointive membership of the Sanitary Board shall be filled by the Common Council for the unexpired term only. Should the office of Mayor become vacant, the person lawfully acting as Mayor shall take the place of the Mayor on the Sanitary Board until a new Mayor is duly elected and qualified.  
(1970 Code, § 21-12)

**§ 33.78 OFFICERS.**

The Mayor shall be Chairperson of the Sanitary Board; during February of each year in which a member is appointed or reappointed to the Board, the Board shall elect a Vice Chairperson and designate a Secretary and Treasurer (who may be separate persons or one and the same).  
(1970 Code, § 21-12.1)

**§ 33.79 COMPENSATION AND BOND OF MEMBERS.**

The Common Council reserves the right from time to time, by ordinance or resolution, to fix the compensation of the members of the Sanitary Board and the Secretary and Treasurer thereof and also to

require and fix the amount of bonds which any or all of its officials may be required to furnish.  
(1970 Code, § 21-12.2)

**§ 33.80 POWERS AND DUTIES.**

The Sanitary Board shall have the powers and perform the duties specified for municipal sanitary boards in W.V. Code, Chapter 16, Art. 13; such Board shall also have such powers and perform such duties as may be prescribed for it by this code or other ordinance or resolution of the Common Council not inconsistent with state law.

(1970 Code, § 21-12.3)

## CHAPTER 34: POLICE DEPARTMENT

### Section

- 34.01 Organization, personnel and purposes
- 34.02 Appointment of members; special police officers
- 34.03 Agreement to reimburse city for compensation paid to certain employees of city upon employees' voluntary termination of employment
- 34.04 Powers and duties of police officers
- 34.05 Duty to respond to fire alarms and assist Fire Department
- 34.06 Chain of command; obedience to orders; regular police
- 34.07 Special police
- 34.08 Chief of Police
- 34.09 Rules and regulations
- 34.10 Penalty for being drunk or under influence of narcotics while on duty; absence due to alcohol or narcotics
- 34.11 Special charge for police protection services
- 34.12 Standing Hearing Board; appointment and duties

### ***Statutory reference:***

*Authority of city to establish, equip and maintain a police department, see W.V. Code, § 8-14-1*

### **§ 34.01 ORGANIZATION, PERSONNEL AND PURPOSES.**

(A) The Police Department shall comprise the Chief of Police and such other personnel, having such ranks and grades, as may from time to time be authorized by the Common Council. The organization shall be as prescribed by the Mayor, in consultation with the Chief of Police, and so constituted as to effectively and economically accomplish its purposes.

(B) The purposes of the Police Department shall be to protect persons and property within the city, to preserve law and order therein, and to enforce therein the criminal laws of the state and the provisions of this code and other ordinances and resolutions of the Common Council without fear or favor.  
(1970 Code, § 17-1)

### ***Statutory reference:***

*Authority of city to employ special school zone*

*police officers, see W.V. Code, § 8-14-5*  
*Authority to employ police matrons, see*  
*W.V. Code, § 8-14-4*  
*Purpose of municipal police department, see*  
*W.V. Code, § 8-14-1*

#### **§ 34.02 APPOINTMENT OF MEMBERS; SPECIAL POLICE OFFICERS.**

Members of the Police Department shall be appointed by the Mayor, with the approval of the Common Council, and may be suspended by him until the next regular meeting of Common Council; the Mayor may, in his discretion, appoint special police, subject to the availability of funds for such purpose.  
(1970 Code, § 17-2)

***Statutory reference:***

*Authority of Mayor to appoint special police*  
*officers, see W.V. Code, § 8-10-1*

#### **§ 34.03 AGREEMENT TO REIMBURSE CITY FOR COMPENSATION PAID TO CERTAIN EMPLOYEES OF CITY UPON EMPLOYEES' VOLUNTARY TERMINATION OF EMPLOYMENT.**

Pursuant to the provisions of W.V. Code, Chapter 30, Art. 29, § 8, as amended, on and after

the effective date of this section, all law enforcement officers shall, before attendance at a law enforcement officers training academy, be required to enter into a written agreement with the city, which agreement shall require and specify that if such employee should voluntarily discontinue employment with the city within 1 year immediately following completion of such training curriculum, such employee shall be obligated to pay to the city the pro rata portion of the sum of such compensation which is equal to that part of such year which the employee has chosen not to remain in the employ of the city.  
(Ord. passed 11-6-1984)

#### **§ 34.04 POWERS AND DUTIES OF POLICE OFFICERS.**

(A) The Chief of Police and any member of the Police Department of the city shall have all of the powers, authority, rights and privileges within the city with regard to the arrest of persons, the collection of claims, and the execution and return of any search warrant, warrant of arrest or other process, which can legally be exercised or discharged by a constable of a magisterial district within the city. In order to arrest for the violation of city ordinances and as to all matters arising within the city limits and coming within the scope of his official duties, the powers of the Chief of Police and any police officers shall extend any where within the county, and the Chief of Police and any police officer shall have the same authority of pursuit and arrest beyond his normal jurisdiction as has a Sheriff. For an offense committed in his presence, any such officer may arrest the offender without a warrant and take him before the Mayor or Police Court or other officer or court having jurisdiction to be dealt with according to law. He and his sureties shall be liable to all the fines, penalties and forfeitures which a constable of a magisterial district is liable to, for any failure or dereliction in such office, to be recovered in the same manner and in the same courts in which such fines, penalties and forfeitures are recovered against a constable. The Chief of Police, and in the absence from the police headquarters of the Chief of Police, the captains of police and lieutenants of police, shall



each have authority to administer oaths to complainants and to issue arrest warrants thereon for all violations of the ordinances of the city.

(B) It shall be the duty of all police officers to aid in the enforcement of the criminal laws of the state within the city and to cause the arrest of, or arrest, any offender and take him before a regular or ex officio justice of the peace of the county to be dealt with according to the law. Failure on the part of any such official or officer to discharge any duty imposed by the provisions of this section shall be deemed official misconduct for which he may be removed from office. Any such official or officer shall have the same authority to execute a warrant issued by a justice of the peace, and the same authority to arrest without a warrant for offenses committed in his presence as a constable.

(1970 Code, § 17-3)

***Statutory reference:***

*For similar state law, see W.V. Code, § 8-14-3*

**§ 34.05 DUTY TO RESPOND TO FIRE ALARMS AND ASSIST FIRE DEPARTMENT.**

It is made the special duty of the Chief of Police, upon request by the Chief of the Fire Department, to designate police officers to respond to all fire alarms and assist the Fire Department in the protection of life and property of the citizens and property of the Fire Department and in controlling and regulating traffic and maintaining order.

(1970 Code, § 17-4)

**§ 34.06 CHAIN OF COMMAND; OBEDIENCE TO ORDERS; REGULAR POLICE.**

The chain of command shall be the Mayor, Chief of Police, and other members of the Police Department according to rank and seniority within rank; all members of the Department shall faithfully obey all lawful orders of their superiors in the chain of command.

(1970 Code, § 17-5)

### **§ 34.07 SPECIAL POLICE.**

Whenever, in the opinion of the Mayor, it becomes necessary to appoint special police officers, those so appointed shall be under the control of the Chief of Police, except as he may provide otherwise. (1970 Code, § 17-6)

### **§ 34.08 CHIEF OF POLICE.**

(A) *Appointment, tenure and removal.* The Chief of Police shall be appointed by the Mayor, with the approval of the Common Council, for an indefinite period of time, and his tenure of office shall depend upon his good conduct and efficiency; he shall be subject to removal only for just cause after a fair and impartial hearing before the Common Council. (1970 Code, § 17-7)

(B) *Commanding officer; accountability.* The Chief of Police shall be the commanding officer of the Police Department, subject to the authority, control and discipline of the Mayor. (1970 Code, § 17-8)

(C) *Powers and duties.* The Chief of Police shall have the powers and perform the duties prescribed for him by state law, this code and other ordinances and by the Mayor, and he shall perform such duties as are incidental to his office as may from time to time be required of him by the Mayor or Common Council. The Chief of Police shall keep accurate and complete records of all property of the Department and the official activities thereof and shall render such reports as may be required of him by the Mayor or Common Council. He shall prepare the annual budget estimate for his Department and submit it to the Common Council through the Mayor. He shall see to it that all fees and other money collected by members of the Department are promptly turned over to the City Clerk or otherwise disposed of according to law. He shall be responsible for the administration, training, discipline and morale of the

members of the Department and for their effective and efficient performance of duty.  
(1970 Code, § 17-9)

***Statutory reference:***

*Authority of Mayor over Police Department, see  
W.V. Code, § 8-14-1*

**§ 34.09 RULES AND REGULATIONS.**

The Mayor, in consultation with the Chief of Police, shall prepare rules and regulations not inconsistent with state law, this code or other ordinance for the government of the Police Department and the members thereof. Such rules and regulations, when approved by the Common Council and placed on file in the office of the City Clerk, shall be binding on all members of the Police Department, and each member shall comply therewith.

(1970 Code, § 17-10)

**§ 34.10 PENALTY FOR BEING DRUNK OR UNDER INFLUENCE OF NARCOTICS WHILE ON DUTY; ABSENCE DUE TO ALCOHOL OR NARCOTICS.**

Any member of the Police Department who is intoxicated or under the influence of narcotics while on duty, and any member of the Police Department who is absent from his place of duty by reason of intoxication or being under the influence of narcotics, shall be instantly suspended or discharged by the Chief of Police, subject to review by the Mayor.

(1970 Code, § 17-11)

**§ 34.11 SPECIAL CHARGE FOR POLICE PROTECTION SERVICES.**

(A) *Purpose; imposed; rate.*

(1) The Common Council finds that the police protection afforded by the Police Department to the people in this city is an essential municipal service and that the general revenues of the city are

not sufficient for the purpose of providing adequate police protection within the city. Therefore, in order to provide for the continuance, maintenance and improvement of the essential service of affording police protection to the people in this city, there is imposed upon, and shall be collected from, the users of such service a service charge at the rate of \$5 per month beginning July 1, 1984. The term **USERS** within the meaning of this section shall include owners of real or personal property which is subject to taxation by the city and persons having a place of business within the city which is subject to any city license.

(2) The special service charge imposed by this section shall be in addition to all other taxes and license fees imposed by the city or by the state.  
(1970 Code, § 17-12) (Ord. passed 4-17-1984)

(B) *Collection; charges constitute actionable debt; regulations.*

(1) It shall be the duty of the Treasurer to collect the special service charges declared to be debts owing to the city, for which the debtor shall be personally liable, and the Treasurer may enforce this liability by appropriate civil action in any court of competent jurisdiction. The County Sheriff is authorized to collect this tax.

(2) The Treasurer is authorized to make reasonable regulations or to amend existing reasonable regulations, not inconsistent with state law, this code or other ordinance, for the collection of the special service charges for police protection, subject to approval of such regulations by ordinance of the Common Council prior to such regulations becoming effective.  
(1970 Code, § 17-13)

(C) *Requirements for amendment of division (A).* Before division (A) of this section is amended in any respect, notice of intent to amend shall be published in conformity with the provisions of W.V. Code, § 8-13-13, and any 30% of the qualified voters of the

city shall have the right to protest such proposed amendment as provided in W.V. Code, § 8-13-13. (1970 Code, § 17-14) (Am. Ord. passed 4-17-1984)

***Statutory reference:***

*Authority of Common Council, by ordinance, to  
make reasonable regulations with respect to  
special service charges, see W.V. Code,  
§ 8-13-13*

*Authorizing city to enact this section, see  
W.V. Code, § 8-13-13*

*Similar state law, see W.V. Code, § 8-13-15*

**§ 34.12 STANDING HEARING BOARD; APPOINTMENT AND DUTIES.**

(A) W.V. Code, § 8-14A-1 provides for the appointment of a standing “Hearing Board.” The Board should be made up of 3 members. The Department Chief shall appoint the first member; the Fraternal Order of Police shall appoint the second member; and the Local Chamber of Commerce shall appoint the third member. The first member shall serve 6 years from the date of his appointment; the second member shall serve 4 years from the date of his appointment; and the third member shall serve 2 years from the date of his appointment. After the original appointments, all appointments shall be made for periods of 4 years by each of the designated appointing authorities.

(B) All procedures for the investigation and duties of the Hearing Board set forth in W.V. Code, §§ 8-14A-1 *et seq.* are incorporated herein by reference as if fully set forth herein.  
(Ord. passed 6-17-2003)

## CHAPTER 35: FIRE DEPARTMENT

### Section

- 35.01 Volunteer Fire Department created;  
purpose and short title
- 35.02 Apparatus, equipment and accessories
- 35.03 Operation officers
- 35.04 Chief of Fire Department
- 35.05 Assistant Chief and other operation  
officers
- 35.06 Appointment and qualifications of  
active members
- 35.07 Authority of Chief to suspend and  
discharge members
- 35.08 Chief to promulgate rules and  
regulations, be responsible for  
personnel, morale and efficiency of  
Department
- 35.09 Chief to conduct bimonthly drills and  
training sessions
- 35.10 Special police powers of members
- 35.11 Identification of personal vehicles  
belonging to members
- 35.12 Special service charge for fire  
protection services

### ***Statutory reference:***

*Authority of municipalities to provide for fire departments, fire fighting equipment and the like, see W.V. Code, § 8-15-1*  
*Fire fighting generally, see W.V. Code, §§ 8-15-2 et seq.*

### **§ 35.01 VOLUNTEER FIRE DEPARTMENT CREATED; PURPOSE AND SHORT TITLE.**

To better protect the lives and property of its citizens, a department to be known as the Ravenswood Volunteer Fire Department is created. Its object shall be the prevention of fire and explosion and the preservation and protection of life and

property from and during such fires and explosions as may nevertheless occur. The Ravenswood Volunteer Fire Department may be designated in this code and other ordinances and resolutions as “the Fire Department.”  
(1970 Code, § 10-22)

### **§ 35.02 APPARATUS, EQUIPMENT AND ACCESSORIES.**

(A) The Fire Department shall be equipped with such apparatus, equipment and accessories as may be required from time to time to maintain its efficiency.

(B) All of the apparatus, equipment and accessories of the Fire Department shall be safely and conveniently housed in such station or stations as may be designated by the Common Council.  
(1970 Code, § 10-23)

### **§ 35.03 OPERATION OFFICERS.**

The operation officers of the Fire Department shall be a Chief, an Assistant Chief, and such other company officers as the Chief may deem necessary for the effective operation of the Department and as authorized by the Common Council.  
(1970 Code, § 10-24)

### **§ 35.04 CHIEF OF FIRE DEPARTMENT.**

(A) *Appointment, tenure and removal.* The Chief of the Fire Department shall be appointed by the Common Council for an indefinite period of time, and his tenure of office shall depend upon his good

conduct and efficiency; he shall be subject to removal only for just cause and after a fair and impartial hearing before the Common Council.  
(1970 Code, § 10-25)

(B) *Commanding officer, accountable only to Common Council; all other officers accountable only to Chief.* The Chief of the Fire Department shall be the commanding officer of the Department, and he shall be held solely accountable to the Common Council only. All other Department and company officers shall be held accountable only to the Chief of the Fire Department.  
(1970 Code, § 10-26)

***Statutory reference:***

*Appointment of municipal fire chiefs to be  
assistant state fire marshals, see W.V. Code,  
§ 29-3-2*

**§ 35.05 ASSISTANT CHIEF AND OTHER OPERATION OFFICERS.**

The Assistant Chief and all other operation officers of the Fire Department shall be appointed by the Chief, accountable only to the Chief, and subject to removal by him at his discretion.  
(1970 Code, § 10-27)

**§ 35.06 APPOINTMENT AND QUALIFICATIONS OF ACTIVE MEMBERS.**

The active membership of the Fire Department shall consist of such personnel as may be appointed by the Chief, or by the Common Council with the approval of the Chief, and shall be able bodied citizens residing within the city who can read and write the English language understandingly, and who are of good moral character, preferably persons who reside within the city and who have telephones in their homes.  
(1970 Code, § 10-28)



**§ 35.07 AUTHORITY OF CHIEF TO SUSPEND AND DISCHARGE MEMBERS.**

Any member of the Fire Department may be suspended or discharged from the Department by the Chief at any time he may deem such action necessary and in the best interest of the Department.  
(1970 Code, § 10-29)

**§ 35.08 CHIEF TO PROMULGATE RULES AND REGULATIONS, BE RESPONSIBLE FOR PERSONNEL, MORALE AND EFFICIENCY OF DEPARTMENT.**

The Chief of the Fire Department shall formulate a set of rules and regulations to govern the Department and shall be responsible to the Common Council for the personnel, morale and general efficiency of the Department.  
(1970 Code, § 10-30)

**§ 35.09 CHIEF TO CONDUCT BIMONTHLY DRILLS AND TRAINING SESSIONS.**

The Chief of the Fire Department shall call the entire membership of the Department together at least twice each month for the purpose of conducting suitable drills in the operation and handling of equipment, first aid and rescue work, salvage, a study of buildings in the city, and all other matters generally accepted as having a bearing upon good firemanship.  
(1970 Code, § 10-31)

**§ 35.10 SPECIAL POLICE POWERS OF MEMBERS.**

All regularly appointed members of the Fire Department are given the necessary special police powers for the purpose of enforcing the provisions of this chapter and other applicable provisions of this code.  
(1970 Code, § 10-32)

### **§ 35.11 IDENTIFICATION OF PERSONAL VEHICLES BELONGING TO MEMBERS.**

Personal vehicles of members of the Fire Department shall display thereon such identification plates or stickers as may be prescribed by the Chief of the Fire Department; a list of all vehicles so identified shall be provided to the Chief of Police.

(1970 Code, § 10-33)

### **§ 35.12 SPECIAL SERVICE CHARGE FOR FIRE PROTECTION SERVICES.**

(A) *Purpose; imposed; rate.*

(1) The Common Council finds that the fire protection afforded by the Fire Department to the people in this city is an essential municipal service, and that the general revenues of the city are not sufficient for the purpose of providing adequate fire protection within the city. Therefore, in order to provide for the continuance, maintenance and improvement of the essential service of affording fire protection to the people in this city, there is imposed upon, and shall be collected from, the users of such service a service charge at the rate of \$2.50 per month. The term **USERS** within the meaning of this section shall include owners of real and personal property which is subject to taxation by the city and persons having a place of business within the city which is subject to any city license.

(2) The special service charge imposed by this section shall be in addition to all other taxes and license fees imposed by the city or by the state.

(1970 Code, § 10-34)

(B) *Collection; charges constitute actionable debt; regulations.*

(1) It shall be the duty of the Treasurer to collect the special service charges imposed by division (A) of this section; all such special service charges are declared to be debts due and owing to the city, for which the debtor shall be personally liable, and the Treasurer may enforce this liability by

appropriate civil action in any court of competent jurisdiction and is vested with the same rights to distrain therefor as is vested in the Sheriff of Jackson County for the collection of taxes.

(2) The Treasurer is authorized to make reasonable regulations not inconsistent with state law, this code or other ordinance for the collection of the special service charges for fire protection, subject to approval of such regulations by the Common Council prior to such regulations becoming effective.  
(1970 Code, § 10-35)

(C) *Requirements for amendment of division (A) of this section.* Before division (A) of this section is amended in any respect, notice of intent to amend shall be published in conformity with the provisions of W.V. Code, § 8-13-13, and any 30% of the qualified voters of the city shall have the right to protest such proposed amendment as provided in W.V. Code, § 8-13-13.

***Statutory reference:***

*Authority of Common Council, by ordinance, to  
make reasonable regulations with respect to  
special service charges, see W.V. Code,  
§ 8-13-15*

*Section enacted pursuant to and in conformity  
with W.V. Code, § 8-13-13*

*Similar state law, see W.V. Code, § 8-13-15*

## CHAPTER 36: MUNICIPAL COURT

### Section

#### *Municipal Court*

- 36.01 Court, and office of Municipal Court Judge, created
- 36.02 Judicial powers of Mayor and Recorder in absence or disability of Mayor or vacancy in officer of Mayor
- 36.03 Appointment, qualifications and term of Municipal Court Judge
- 36.04 Clerk of Court
- 36.05 Courtroom; docket, supplies and the like
- 36.06 Jurisdiction, powers and duties of Municipal Court Judge
- 36.07 Municipal Court Judge is justice and conservator of the peace; powers and duties as Justice of the Peace
- 36.08 Collection of fines and the like
- 36.09 General right of appeal
- 36.10 Expense of persons committed to regional jail to be paid by city and taxed as part of costs of proceeding
- 36.11 Schedule of taxable costs and fees
- 36.12 Disposition of costs and fees collected
- 36.13 Payment of costs prerequisite to withdrawal of warrant after arrest

#### *Jury Trials in City Court*

- 36.25 Trial by jury; 12 member jury
- 36.26 Persons liable to service
- 36.27 Exemptions and disqualifications
- 36.28 Jury commissioners; appointment; duties
- 36.29 Preparation of jury list; random selection
- 36.30 Disqualification from jury service
- 36.31 Custody of jury list; striking off names
- 36.32 Preparation and custody of ballots
- 36.33 Selection of trial jurors
- 36.34 Issuance of summons to jury commissioners
- 36.35 Service of summons; drawing of jurors; preparation of list
- 36.36 Special jury commissioners; delivery of list; summoning the jurors
- 36.37 Ballots
- 36.38 Summoning jurors during term

- 36.39 Penalty for failure of jurors to attend
- 36.40 Discharge of jurors; excuse from attendance
- 36.41 Penalty for failure to draw or summon jurors
- 36.42 Compensation of jurors
- 36.43 State code provisions applicable

***Statutory reference:***

*Creation, jurisdiction, powers and duties of  
Municipal Court and Municipal Court Judges,  
see W.V. Code, §§ 8-10-1, 8-10-2  
Petit juries, see W.V. Code, Chapter 52, Art. 1*

## ***MUNICIPAL COURT***

### **§ 36.01 COURT, AND OFFICE OF MUNICIPAL COURT JUDGE, CREATED.**

There is created a Municipal Court for the city, and the office of Municipal Court Judge is established.  
(1970 Code, § 16-1)

***Statutory reference:***

*Authority of Common Council to create a  
Municipal court and to provide for the  
appointment or election of a Municipal court  
judge, see W.V. Code, § 8-10-2*

### **§ 36.02 JUDICIAL POWERS OF MAYOR AND RECORDER IN ABSENCE OR DISABILITY OF MAYOR OR VACANCY IN OFFICE OF MAYOR.**

Nothing in this chapter shall be construed as limiting or preventing the Mayor, or the Recorder in the absence or disability of the Mayor or when the office of Mayor is vacant, from exercising any of the powers of the Mayor as provided in W.V. Code, §§ 8-10-1 and 8-10-3.

(1970 Code, § 16-2)

***Charter reference:***

*Mayor being a conservator of the peace, with  
certain police and judicial powers, see Charter,  
§ 30*

### **§ 36.03 APPOINTMENT, QUALIFICATIONS AND TERM OF MUNICIPAL COURT JUDGE.**

The Municipal Court Judge shall be appointed by the Mayor, with the approval of the Common Council, for an indefinite term. He shall be a member of the bar of the State of West Virginia.

(1970 Code, § 16-3)

#### **§ 36.04 CLERK OF COURT.**

The Chief of Police, a police officer, or other person designated by the Chief of Police with the approval of the Municipal Court Judge, shall be ex officio clerk of the Municipal Court. The Clerk of the Municipal Court shall be custodian of the dockets and records of the Municipal Court, under the supervision of the Municipal Court Judge, and he shall perform such duties as may lawfully be prescribed for him by the Municipal Court Judge.

(1970 Code, § 16-4)

#### **§ 36.05 COURTROOM; DOCKET, SUPPLIES AND THE LIKE.**

The Common Council shall provide a suitable courtroom for the Municipal Court and a proper docket and all necessary furniture, equipment, records and supplies for the Municipal Court and the Municipal Court Judge.

(1970 Code, § 16-5)

#### **§ 36.06 JURISDICTION, POWERS AND DUTIES OF MUNICIPAL COURT JUDGE.**

The Municipal Court Judge shall preside over all sessions of the Municipal Court, and he shall have jurisdiction to hear and determine any and all alleged violations of this code and other ordinances and any and all violations of orders, bylaws, acts, resolutions, notices, rules and regulations of the Common Council or promulgated pursuant to authority of the Common Council and to convict and sentence persons therefor.

(1970 Code, § 16-6)

#### **§ 36.07 MUNICIPAL COURT JUDGE IS JUSTICE AND CONSERVATOR OF THE PEACE; POWERS AND DUTIES AS JUSTICE OF THE PEACE.**

The Municipal Court Judge shall be ex officio a justice and conservator of the peace within the city and shall, within the city, have and exercise all of the

powers and perform all duties vested by law in a municipal court judge, except that he shall have no jurisdiction in civil cases or causes of action.  
(1970 Code, § 16-7)

#### **§ 36.08 COLLECTION OF FINES AND THE LIKE.**

The Municipal Court Judge shall have the power to issue executions for all fines, penalties and costs imposed by him, or he may require the immediate payment thereof. In default of such payment, he may commit the party in default to the jail of the county or other place of imprisonment in the city, if there be one, until the fine or penalty and costs shall be paid.  
(1970 Code, § 16-9)

#### **§ 36.09 GENERAL RIGHT OF APPEAL.**

Every person sentenced under this chapter by the Mayor, Recorder or Municipal Court Judge to imprisonment or to the payment of a fine of \$10 or more (and in no case shall a fine of less than \$10 be given if the defendant, his agent or attorney object thereto) shall be allowed an appeal de novo to the Circuit Court of the county, upon entering into an appeal bond, with surety deemed by the Municipal Court Judge, Mayor or Recorder, as the case may be, sufficient, in a penalty double the amount of fine and costs, with condition that the person appealing will perform and satisfy any judgment which may be rendered against him by the Circuit Court on such appeal. Any such appeal must be perfected within 10 days from and after the date upon which the sentence is imposed. If such appeal be taken, the appeal bond and other papers in the case shall be forthwith delivered by the Mayor, Recorder, Municipal Court Judge or his clerk, to the clerk of the court to which such appeal is taken.

(1970 Code, § 16-10)

***Statutory reference:***

*Appeals from municipal police courts and action  
by appellate courts on such appeals, see  
W.V. Code, § 8-34-1*



**§ 36.10 EXPENSE OF PERSONS COMMITTED TO REGIONAL JAIL TO BE PAID BY CITY AND TAXED AS PART OF COSTS OF PROCEEDING.**

The expense of maintaining any individual committed to jail, except it be to answer an indictment, shall be paid by the city and taxed as part of the costs of the proceeding.

(1970 Code, § 16-11)

***Charter reference:***

*Employment and safe keeping of city prisoners,  
see Charter, § 39*

***Statutory reference:***

*Similar state law, see W.V. Code, § 8-10-1*

**§ 36.11 SCHEDULE OF TAXABLE COSTS AND FEES.**

The Municipal Court Judge shall prepare and submit to the Common Council a schedule of taxable costs and fees, not inconsistent with state law, this code or other ordinance. Such schedule, when approved by resolution of the Common Council, shall then be applicable to all costs and fees taxed or charged in all cases and proceedings before the Municipal Court Judge or Mayor, or before the Recorder when he is exercising the authority of the Mayor.

(1970 Code, § 16-12)

**§ 36.12 DISPOSITION OF COSTS AND FEES COLLECTED.**

All costs and fees collected shall be promptly transmitted to the Treasurer and deposited by him in the General Fund of the city.

(1970 Code, § 16-13)

***Statutory reference:***

*Payment of arrest fee of \$1 to be paid into police  
officer's pension and relief fund, see  
W.V. Code, § 8-22-20*

**§ 36.13 PAYMENT OF COSTS PREREQUISITE TO WITHDRAWAL OF WARRANT AFTER ARREST.**

The Municipal Court Judge, Mayor or Recorder shall not permit any person to withdraw his complaint, once an arrest has been made, until the costs have been paid.  
(1970 Code, § 16-14)

***JURY TRIALS IN CITY COURT***

**§ 36.25 TRIAL BY JURY; 12 MEMBER JURY.**

(A) Any defendant in any criminal action, a conviction for which carries with it the possibility of any incarceration, shall be entitled to a trial by jury, and any such verdict shall be unanimous. Any defendant in jeopardy of incarceration may waive his right to a jury trial, if he is advised of his right to a jury trial and affirmatively executes such waiver in writing.

(B) A Municipal Court jury shall consist of 12 persons to be selected from a panel of 20 persons.  
(Ord. passed 2-7-1995)

**§ 36.26 PERSONS LIABLE TO SERVICE.**

All persons, who are 18 years of age and not over 65 and who are citizens of West Virginia and residents of the city, shall be liable to serve as jurors, except as hereinafter provided.  
(Ord. passed 2-7-1995)

**§ 36.27 EXEMPTIONS AND DISQUALIFICATIONS.**

The Municipal Judge may, in his discretion, exempt or excuse any person from jury service when it appears that such service would be improper or work an undue hardship. The following persons shall

be disqualified from serving on juries: persons convicted of a felony or infamous crime.  
(Ord. passed 2-7-1995; Am. Ord. passed 6-16-1995)

### **§ 36.28 JURY COMMISSIONERS; APPOINTMENT; DUTIES.**

(A) There shall be two jury commissioners. They shall be of opposite politics, citizens of good standing, residents in the city and members of the principal political parties thereof; the chairperson of a political party shall be ineligible to appointment.

(B) Jury commissioners shall be appointed by the City Judge. The term of office shall be 4 years and shall commence immediately following appointment and taking of the oath of office. One of the original commissioners so appointed shall be appointed for a term of 2 years, and their successors shall be appointed as aforesaid, alternately so that a period of 2 years shall intervene between the dates when the terms of office of the 2 commissioners shall begin and expire. Following the initial term, all such commissioners shall take office on July 1.

(C) Jury commissioners may be removed from office by the City Judge for official misconduct, incompetency, habitual drunkenness, neglect of duty, conviction of a felony or scandalous offense or gross immorality. Vacancies caused by death, resignation or otherwise shall be filled for the unexpired term in the same manner as the original appointment.

(D) Jury commissioners shall receive as compensation for their services, while necessarily employed, an amount to be fixed by the City Judge not to exceed \$25 per day, which shall be payable out of the Court budget.

(E) Before entering upon the discharge of his duties, a jury commissioner shall take and subscribe, before the Clerk of the city or City Judge, who are hereby authorized to administer the same, an oath, to be filed and preserved by him in his office, to the following effect:

State of West Virginia,  
County of Jackson, to-wit:

I, A \_\_\_\_\_ B \_\_\_\_\_, do solemnly swear that I will support the Constitution of the United States and the Constitution of this state and will faithfully discharge the duties of Ravenswood jury commissioner to the best of my skill and judgment, and that I will not place any person upon the jury list in violation of law, or out of fear, favor or affection.  
(Ord. passed 2-7-1995)

**§ 36.29 PREPARATION OF JURY LIST; RANDOM SELECTION.**

(A) The jury commissioners shall, annually at the levy term of the County Commission thereof or annually at such other time as may be designated by order of the City Judge prepare, without reference to party affiliation, a list of such inhabitants of the city, not exempted or disqualified by law as aforesaid, as they shall think well qualified to serve as jurors, being persons of sound judgment, or good moral character and free from legal exceptions, which list includes not less than 400.

(B) The jury commissioners may, as an alternative to the procedure in division (A) of this section, utilize the jury list of the Jackson County Circuit Court for the purposes of this chapter as set forth herein below, provided that such use must be first approved by the Circuit Judge.  
(Ord. passed 2-7-1995)

**§ 36.30 DISQUALIFICATION FROM JURY SERVICE.**

The provisions of W.V. Code, Chapter 52, Art. 1, § 8, as amended, are incorporated and adopted by reference.  
(Ord. passed 2-7-1995)

**§ 36.31 CUSTODY OF JURY LIST; STRIKING OFF NAMES.**

The list so prepared shall be delivered to the Clerk of the City Court and by him be safely kept. It shall be subject to inspection only by the City Court, or the jury commissioners, or the Clerk of such Court, as hereinafter prescribed. Such court, or the jury commissioners, may strike from such list the name of any person who has been convicted of a felony or any scandalous offense or been guilty of any gross immorality, and substitute another in his place.

(Ord. passed 2-7-1995)

**§ 36.32 PREPARATION AND CUSTODY OF BALLOTS.**

At the time such list is made out, the jury commissioners shall also cause all the names upon the same to be fairly written, each on a separate paper or ballot, and shall fold or roll up the ballots so as to resemble each other as nearly as may be, and so that the name written thereon shall not be visible on the outside and shall deposit the ballot in a secure box, to be prepared for the purpose, which shall be known as the "jury box" and shall be safely kept by the Clerk of the City Court and shall be opened only by the order of the jury commissioner or as hereinafter prescribed.

(Ord. passed 2-7-1995)

**§ 36.33 SELECTION OF TRIAL JURORS.**

All jurors required for the trial of cases in City Court shall be selected by drawing ballots from the jury box in the manner prescribed in this chapter, and the persons whose names are written on the ballots so drawn shall be returned to serve as jurors.

(Ord. passed 2-7-1995)

**§ 36.34 ISSUANCE OF SUMMONS TO JURY COMMISSIONERS.**

Whenever a jury trial shall be necessitated, the Clerk of the City Court shall summons or otherwise

timely notify the jury commissioners to attend at the office of the City Court, on a day named in such summons, for the purpose of drawing the ballots for the number of jurors mentioned in such writ.  
(Ord. passed 2-7-1995)

**§ 36.35 SERVICE OF SUMMONS; DRAWING OF JURORS; PREPARATION OF LIST.**

The writ of venire facias and summons, if utilized, shall be delivered to the Chief of Police, or his designee, who shall serve the summons on the jury commissioners; the jury commissioners shall attend on the day designated in the summons, at the Clerk's office of the City Court and in the presence of the Clerk of the Court, shall draw the proper number of jurors from the jury box and shall make a list thereof to be delivered to the officer servicing the summons.  
(Ord. passed 2-7-1995)

**§ 36.36 SPECIAL JURY COMMISSIONERS; DELIVERY OF LIST; SUMMONING THE JURORS.**

(A) If either, or both, of the jury commissioners fail to attend as required by such summons, the Judge of the City Court shall appoint a special jury commissioner or commissioners, having the qualifications herein required, to act in his or their place and stead, for the time being, and such jurors shall be drawn by such commissioners; the Clerk of the Court shall place the list thereof in the hands of the Chief of Police. Such officer, at least 3 days before the time when the jurors are required to attend, shall summon each person who is drawn to attend the sitting of the Court at the time and place mentioned in the writ, and make due return thereof, and of the summons aforesaid, to the Court, at the opening thereof.

(B) In addition to any other method provided by law, any person named in writs of venire facias, or a summons for jurors, by direction of the Court, may

be served by the Chief of Police mailing a copy thereof to such person commanding him to attend as a juror, at a time and place designated therein, which copy shall be registered or certified and deposited in the post office, addressed to such person at his usual post office address. The personal receipt of the person so addressed for such registered or certified copy shall be regarded as personal service of such writ or summons upon such person.

(Ord. passed 2-7-1995)

### **§ 36.37 BALLOTS.**

(A) *Mode of drawing ballots from box; destruction of ballots.* When jurors are to be drawn as aforesaid, the ballots in the jury box shall be shaken and mixed together by 1 of the jury commissioners, and the other jury commissioner shall openly draw therefrom as many ballots (without inspecting the names written on any until the proper number is drawn) as shall be equal to the number of jurors required; if any person whose name is so drawn is unable by reason of death, sickness, absence from home or other cause to attend as a juror his name shall at the conclusion of such draft be returned into the box; or if he is exempted by law, or his name has been stricken from the jury list, the ballot shall be destroyed and another shall be drawn in his stead.

(B) *Indorsement on and custody of ballots drawn; notation of jurors.* When any person is drawn and returned to serve as aforesaid, the jury commissioners shall cause to be indorsed on the ballot containing his name the word “drawn” and shall cause it to be placed in another box to be kept for the purpose in the custody of the Clerk of the City Court and opened only as hereinafter prescribed and the date of the person so drawn.

(C) *When ballots to be returned to jury box.* When all the ballots in the jury box have been destroyed or placed in the box for the ballots marked “drawn” except such as contain the names of those who, for the reasons aforesaid, are unable to attend, the last mentioned box shall be opened in the

presence of the officers attending to draw jurors and the ballots therein replaced in the jury box from which drafts shall thereafter again be made in the manner herein prescribed.  
(Ord. passed 2-7-1995)

**§ 36.38 SUMMONING JURORS DURING TERM.**

Nothing contained in this chapter shall prevent the Court from requiring other jurors to be drawn by the Clerk in the presence of the Court and to be summoned whenever it shall be found necessary for the convenient dispatch of business. But in such case, the list prepared by the jury commissioners as aforesaid shall be exhausted before another list is made. The jurors so summoned shall be required to attend on such days as the Court shall direct.

(Ord. passed 2-7-1995)

**§ 36.39 PENALTY FOR FAILURE OF JURORS TO ATTEND.**

If any person duly summoned to attend as a juror in the Court shall neglect to attend, without any sufficient excuse, he shall pay a fine not exceeding \$50, which shall be imposed by the Court.

(Ord. passed 2-7-1995)

**§ 36.40 DISCHARGE OF JURORS; EXCUSE FROM ATTENDANCE.**

The Court, when not incompatible with the proper dispatch of its business, shall have power to discharge persons summoned as jurors therein or dispense with their attendance on any day of its sitting.

(Ord. passed 2-7-1995)

**§ 36.41 PENALTY FOR FAILURE TO DRAW OR SUMMON JURORS.**

When, by neglect of any of the duties required in this chapter to be performed by any of the officers or



persons herein mentioned, the jurors to be returned shall not be duly drawn and summoned to attend the Court, any person guilty of such neglect shall pay a fine not exceeding \$20, to be imposed by the Court.  
(Ord. passed 2-7-1995)

#### **§ 36.42 COMPENSATION OF JURORS.**

*(A) Taxation of jury fees as costs.*

(1) Any person summoned as aforesaid, by virtue of a venire facias or otherwise, to serve as a juror, and actually attending the court, at the time summoned, whether he is called to serve on a jury or not, shall, for each day he so attends, be entitled to receive the sum not to exceed \$25 per case to be fixed by order entered of record and the same mileage and other expenses allowed to witnesses to be paid out of the Court budget; provided, that for each day he shall not actually attend Court he shall receive nothing, and he shall be allowed mileage not to exceed \$.25 per mile for necessary travel to and from his place of residence during the session. There shall be taxed in the costs against any person against whom a judgment on the verdict of a jury may be rendered in a case of misdemeanor, and against any person against whom judgment on the verdict of a jury may be rendered in a civil action, and against any person on whose motion the verdict of a jury is set aside and a new trial granted, a total sum equal to the amount of jury costs ordered for jury costs, which, when collected by the City Court Clerk shall forthwith be paid by the Clerk into the Court Fund. The Clerk and his surety shall be liable therefor on his official bond as for other money coming into his hands by virtue of his office.

(2) The Clerk of the Court shall annually certify a list of all money so paid to him, and in addition thereto, a correct list of all the cases in which jury fees have been taxed, and are, at the time, properly due and payable into the City Fund, and the Clerk shall be held to account annually for all such moneys collected.

*(B) When juror not entitled to compensation.* No juror who departs without leave of the Court shall be

entitled to receive any compensation or reimbursement for his services as a juror.

(C) *Payment of compensation.* The Clerk, as soon as practicable after the adjournment of the Court, or before the adjournment of the Court at such time as the Court may direct, shall issue or cause to be issued a check payable to the juror for the amount allowed to him and deliver it to the juror.  
(Ord. passed 2-7-1995)

#### **§ 36.43 STATE CODE PROVISIONS APPLICABLE.**

The provisions of W.V. Code, Chapter 51, Art. 1, §§ 2 through 21, whenever not inconsistent with the foregoing sections of this chapter, whenever applicable, are incorporated by reference and adopted.  
(Ord. passed 2-7-1995)

## **CHAPTER 37: RESERVED**

## **CHAPTER 38: ELECTIONS**

### **Section**

- 38.01 Applicability of state law
- 38.02 When regular city elections to be held;  
when term of office begins
- 38.03 Time within which to file certificates  
of candidacy
- 38.04 Qualifications of candidates
- 38.05 Form of certificate of candidacy
- 38.06 Filing fees
- 38.07 Certification and approval of list of  
candidates
- 38.08 Results of election
- 38.09 Voter registration

### **§ 38.01 APPLICABILITY OF STATE LAW.**

The provisions of W.V. Code, Chapters 3 and 8 which relate to municipal elections are adopted insofar as they are applicable to this city.  
(1970 Code, § 8-1)

### **§ 38.02 WHEN REGULAR CITY ELECTIONS TO BE HELD; WHEN TERM OF OFFICE BEGINS.**

The biannual election for the officers of Mayor, Recorder and 5 Councilpersons shall be held on the second Tuesday of June of each alternate year beginning in 1989.  
(1970 Code, § 8-2) (Am. Ord. passed 1-3-1989)

### **§ 38.03 TIME WITHIN WHICH TO FILE CERTIFICATES OF CANDIDACY.**

Candidates for the offices of Mayor, Recorder and Councilpersons shall file for the respective

offices no earlier than January 19 and no later than February 16 of each municipal election year; providing, however, that any such certificates of candidacy shall be filed only on a normal or regular business day occurring within the months of January and February, exclusive of Saturdays, Sundays, and legal holidays.  
(1970 Code, § 8-3) (Am. Ord. passed 1-5-1993)

### **§ 38.04 QUALIFICATIONS OF CANDIDATES.**

Each candidate shall, at the time of filing for office, be a resident of the city, shall be a legally qualified voter under the laws of the state and entitled to vote for members of the Common Council.  
(W.V. Code § 8-5-7(c)) (1970 Code, § 8-4) (Am. Ord. passed 2-19-1985)

**§ 38.05 FORM OF CERTIFICATE OF CANDIDACY.**

(A) Each candidate for municipal office shall complete and file a certificate declaring himself to be a candidate for a particular office in form and effect as follows:

“I, \_\_\_\_\_, do hereby certify that I am a candidate for the office of \_\_\_\_\_, and desire that my name be printed on the official ballot to be voted at the next municipal election to be held on the first Tuesday of June, 20 \_\_\_\_; that I am a legally qualified voter of the City of Ravenswood, Jackson County, West Virginia; that my residence is No. \_\_\_\_\_, \_\_\_\_\_ Street, in the City of Ravenswood; that I was assessed with and paid taxes upon at least One Hundred (\$100.00)

Dollars worth of real or personal property within the City of Ravenswood; (or, as the case may be,) that I was honorably discharged from the armed forces of the United States within the last two years; that I am eligible to hold such office, and that I am a candidate for such office in good faith.”

\_\_\_\_\_  
Candidate

“Signed and acknowledged before me on this the \_\_\_\_\_ day of \_\_\_\_\_, 20 \_\_\_\_ .

“\_\_\_\_\_  
Name and title of officer taking  
acknowledgment.”

(B) The foregoing blank forms shall be furnished by the City Clerk to all candidates upon payment of the filing fees prescribed in this chapter.  
(1970 Code, § 8-5)

#### **§ 38.06 FILING FEES.**

Each candidate for office shall pay, at the time of filing, a filing fee as determined by the Common Council from time to time. All of the fees shall be credited by the City Clerk to the General Fund.  
(1970 Code, § 8-6)

#### **§ 38.07 CERTIFICATION AND APPROVAL OF LIST OF CANDIDATES.**

The Recorder shall, within 10 days following the last day for filing for municipal office, prepare a complete list of the candidates for the various offices, which list shall be certified to and approved by the Common Council at its next regular meeting. The list so certified and approved shall be forthwith posted in at least 2 conspicuous places within the city or in the Council Chambers until the election has been concluded.  
(1970 Code, § 8-7)

### **§ 38.08 RESULTS OF ELECTION.**

(A) *Canvass of votes.* The Common Council shall, after each election, at its next regular meeting or at a special meeting called for such purpose prior to the regular meeting, verify by canvas, the election results.  
(1970 Code, § 8-8)

(B) *For offices of Mayor and Recorder.* The candidates for the offices of Mayor and Recorder, respectively, who attain a plurality of votes shall be declared the winners of those offices.  
(1970 Code, § 8-9)

(C) *For Councilpersons.* The 5 candidates for the office of Common Council who shall have attained a plurality of votes shall be declared the winners.  
(1970 Code, § 8-10)

### **§ 38.09 VOTER REGISTRATION.**

(A) For the purpose of municipal elections, the voters registration records for the city, as kept by the Clerk of the County Court, shall be applicable to determine whether or not a person is eligible to vote in an election; provided, that the party designation contained in such county registration records shall not be used for any purpose in the municipal election, and no action taken by a voter in any municipal election shall in any way affect the party registration of such voter upon the permanent voter's registration records. (1970 Code, § 8-11)

(B) The city does adopt the Voters Registration Books and Records of the Clerk of the County of Jackson, as and for the official election records and books for the conduct of municipal elections; provided, however, that only those persons who reside within the corporate limits of this city shall be entitled to vote at any such municipal election.  
(1970 Code, § 8-12) (Am. Ord. passed 12-18-1984)

## CHAPTER 39: CIVIL DEFENSE AND CIVIL EMERGENCIES

### Section

#### *Civil Defense*

- 39.01 Definitions
- 39.02 City civil defense organization
- 39.03 Responsibility of Common Council
- 39.04 City Director of Civil Defense; units of organization; comprehensive program
- 39.05 City Civil Defense Council
- 39.06 Loyalty of civil defense personnel; oath required
- 39.07 Suspension or amendment when county organization adequate to meet any requirement of city

#### *Civil Emergencies*

- 39.20 When state of emergency deemed to exist
- 39.21 Declaration of emergency by proclamation of Mayor; restrictions may be imposed; exemptions from restrictions
- 39.22 Specific restrictions authorized
- 39.23 Extension, alteration and rescission of proclamation
- 39.24 Compliance with restrictions imposed by proclamation mandatory
- 39.25 Authority to request state police and military forces; when proclamation of martial law may be recommended to governor
- 39.26 End of emergency period

#### **Statutory reference:**

*Powers, duties and responsibility of municipal organizations for civil defense, see W.V. Code, §§ 15-5-1 et seq.*

## **CIVIL DEFENSE**

### **§ 39.01 DEFINITIONS.**

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

**CIVIL DEFENSE.** The preparation for and the carrying out of all emergency functions, other than functions for which military forces are primarily responsible, to prevent, minimize and repair injury and damage resulting from disasters caused by enemy attack, sabotage or other hostile action, or by fire, flood, earthquake, or other natural causes. These functions include, without limitation, fire fighting services, police services, medical and health services, rescue, engineering, air-raid warning services, communications, radiological, chemical and other special weapons defense, evacuation of persons from stricken areas, emergency welfare services, emergency transportation, existing or properly assigned functions of plant protection, temporary restoration of public utility services, and other functions related to civilian protection, together with all other activities necessary or incidental to the preparation for and carrying out of the foregoing functions.

**MOBILE SUPPORT UNIT.** An organization for civil defense created in accordance with the provisions of W.V. Code, Chapter 15, Art. 5 by state or by authority of this city to be dispatched by the Governor





to supplement local organizations for civil defense in a stricken area.  
(1970 Code, § 7-1)

***Statutory reference:***

*For similar definitions in state law, see  
W.V. Code, § 15-5-2*

**§ 39.02 CITY CIVIL DEFENSE ORGANIZATION.**

In compliance with the directive of the legislature contained in W.V. Code, § 15-5-8, there is established the city civil defense organization, which shall be subject to all applicable provisions of W.V. Code, Chapter 15, Art. 5 and all rules, regulations, plans, programs and orders promulgated, issued or given pursuant thereto. Such organization shall be as prescribed in this subchapter.  
(1970 Code, § 7-2)

**§ 39.03 RESPONSIBILITY OF COMMON COUNCIL.**

The Common Council shall have the general direction and control of the city civil defense organization and shall be responsible for carrying out the provisions of this subchapter and all applicable provisions of W.V. Code, Chapter 15, Art. 5.  
(1970 Code, § 7-3)

**§ 39.04 CITY DIRECTOR OF CIVIL DEFENSE; UNITS OF ORGANIZATION; COMPREHENSIVE PROGRAM.**

The Mayor, with the approval of the Common Council, shall appoint a qualified person to be City Director of Civil Defense, to serve at the will and pleasure of the Common Council. The City Director of Civil Defense, subject to the direction and control of the Common Council, shall be the executive head of the city civil defense organization and shall be directly responsible to the Common Council for the organization, administration and operation of the civil defense program of the city. He shall, with the

approval of the Common Council, prepare and promulgate such a program, and shall establish such units as may be required thereby. The City Director of Civil Defense may at any time call upon the City Civil Defense Council for advice with respect to any matter relating to the civil defense of the city and its environs. (1970 Code, § 7-4)

#### **§ 39.05 CITY CIVIL DEFENSE COUNCIL.**

*(A) Established; composition; qualifications, appointment, compensation and term of members; filling vacancies.*

(1) There is established the City Civil Defense Council, which shall consist of 5 citizens of the city appointed by the Mayor with the approval of the Common Council, not more than 3 of whom shall be members of the same political party. Members shall be appointed for a term of 2 years and until their successors are appointed and qualified; provided, that 2 of the first 5 members shall be appointed to serve until the first day of July 1972, and 3 of the first 5 members to be appointed shall be appointed to serve until the first day of July 1973, thereby establishing overlapping terms. Vacancies shall be filled in the same manner for the unexpired term only.

(2) Members of the City Civil Defense Council shall serve without compensation, but shall be reimbursed for the reasonable and necessary expenses incurred in the performance of their duties. (1970 Code, § 7-5)

*(B) Meetings; bylaws; officers; powers and duties.* The City Civil Defense Council shall meet during July of each year to elect from its membership a chairperson and such other officers as it may require and to adopt such bylaws as may be expedient for the transaction of its business. The City Civil Defense Council shall meet as often as may be necessary for the proper performance of its duty, which is to advise the City Director of Civil Defense on all matters pertaining to civil defense of the city and its environs. (1970 Code, § 7-6)

#### **§ 39.06 LOYALTY OF CIVIL DEFENSE PERSONNEL; OATH REQUIRED.**

No person shall be employed or associated in any capacity in the city civil defense organization who advocates or has advocated a change by force or violence in the constitutional form of the government of the United States or of this state, or of this city, or the overthrow of any government in the United States by force or violence, or who has been convicted of or is under indictment or information charging any subversive act against the United States. Each person who is appointed to serve in this organization for civil defense shall, before entering upon his duties, take an oath in writing, before a person authorized to administer oaths in this state, which oath shall be substantially as follows:

“I, \_\_\_\_\_, do solemnly swear (or affirm) that I will support and defend the Constitution of the United States, and the Constitution of the State of West Virginia, against all enemies, foreign and domestic; that I will bear true faith and allegiance to the same; and I take this obligation freely, without any mental reservation for purpose of evasion; and that I will well and faithfully discharge the duties upon which I am about to enter.

“And I do further swear (or affirm) that I do not advocate, nor am I a member of any political party or organization that advocates the overthrow of the Government of the United States, or of this state, by force or violence; during such time as I am a member of this civil defense organization, I will not advocate or become a member of any political party or organization that advocates the overthrow of the Government of the United States, or of this state, by force or violence.”

(1970 Code, § 7-7)

#### ***Statutory reference:***

*For similar state law, see W.V. Code, § 15-5-15*



**§ 39.07 SUSPENSION OR AMENDMENT WHEN COUNTY ORGANIZATION ADEQUATE TO MEET ANY REQUIREMENT OF CITY.**

If and when, at any time, the Common Council by resolution finds as a fact that the Jackson County civil defense organization is adequate to meet any one or more of the civil defense requirements of this chapter and that, therefore, any one or more of the provisions of this subchapter is unnecessary or in conflict with county law, the Common Council may, in such resolution, suspend the operation of such unnecessary or conflicting provision or provisions of this subchapter, or amend such provision or provisions of this subchapter to conform to the findings of the Common Council as stated in such resolution.

(1970 Code, § 7-8)

***CIVIL EMERGENCIES***

**§ 39.20 WHEN STATE OF EMERGENCY DEEMED TO EXIST.**

For the purposes of this subchapter, a state of “emergency” shall be deemed to exist whenever, during times of great public crises, disaster, rioting, catastrophe, or similar public civil emergency, for any reason, municipal public safety authorities are unable to maintain public order or afford adequate protection for lives or property.

(1970 Code, § 7-9)

***Statutory reference:***

*Authority of Common Council to protect and promote the public safety, health, welfare and good order, see W.V. Code, § 8-12-5(44); also, see W.V. Code, § 8-14-1*

**§ 39.21 DECLARATION OF EMERGENCY BY PROCLAMATION OF MAYOR; RESTRICTIONS MAY BE IMPOSED; EXEMPTIONS FROM RESTRICTIONS.**

(A) In the event of an existing or threatened state of emergency endangering the lives, safety, health and welfare of the people within the city or threatening damage to or destruction of property, the Mayor is empowered to issue a public proclamation declaring to all persons the existence of such a state of emergency, and, in order to more effectively protect the lives and property of people within the city, to place in effect any or all of the restrictions authorized by this subchapter.

(B) The Mayor is authorized and empowered to limit by such proclamation the application of all or any part of such restrictions to any area specifically designated or described within the city and to specific hours of the day or night, and to exempt from all or any part of such restrictions law enforcement officers, firefighters and other public employees, doctors, nurses, employees of hospitals and other medical facilities; on-duty military personnel, whether state or federal; on-duty employees of public utilities, public transportation companies, and newspaper, magazine, radio broadcasting and television broadcasting corporations; and such other classes of persons as may be essential to the preservation of public order and immediately necessary to serve the safety, health and welfare needs of the people within the city.

(1970 Code, § 7-10)

**§ 39.22 SPECIFIC RESTRICTIONS AUTHORIZED.**

During the existence of a proclaimed state of emergency, the Mayor may impose by proclamation any or all of the following restrictions:

(A) Prohibit or regulate the possession off one's own premises of explosives, firearms, ammunition or dangerous weapons of any kind, and prohibit the purchase, sale, transfer or other disposition thereof;

(B) Prohibit or regulate the buying or selling of beer, wine, or intoxicating beverages of any kind and their possession or consumption off one's own premises;

(C) Prohibit or regulate any demonstration, parade, march, vigil, or participation therein from taking place on any of the public ways or upon any public property;

(D) Prohibit or regulate the sale or use of gasoline, kerosene, naphtha or any other explosive or flammable fluids or substances;

(E) Prohibit or regulate travel upon any public street or upon any other public property, except by those in search of medical assistance, food or other commodity or service necessary to sustain the well being of themselves or their families or some member thereof;

(F) Prohibit or regulate the participation in or carrying on of any business activity and prohibit or regulate the keeping open of places of business, places of entertainment, and other place of public assembly;

(G) Establish hours during which a curfew shall be in effect.  
(1970 Code, § 7-11)

#### **§ 39.23 EXTENSION, ALTERATION AND RESCISSION OF PROCLAMATION.**

Any proclamation of emergency promulgated pursuant to this subchapter may be extended, altered or rescinded in any particular during the continued or threatened existence of a state of emergency by the issuance of a subsequent proclamation.  
(1970 Code, § 7-12)

#### **§ 39.24 COMPLIANCE WITH RESTRICTIONS IMPOSED BY PROCLAMATION MANDATORY.**

During the existence of a proclaimed state of emergency, it shall be unlawful for any person to

violate any provision of any restriction imposed by any proclamation authorized by this subchapter.  
(1970 Code, § 7-13) Penalty, see § 10.99

#### **§ 39.25 AUTHORITY TO REQUEST STATE POLICE AND MILITARY FORCES; WHEN PROCLAMATION OF MARTIAL LAW MAY BE RECOMMENDED TO GOVERNOR.**

If, in the sound discretion of the Mayor, it shall appear that the emergency is, or that the threatened emergency is likely to be, of such proportions that the means available to the city to maintain law and order within the police jurisdiction of the city are insufficient for such purpose, the Mayor shall, promptly and by the most expeditious means of communication, inform the governor of the situation and request that the necessary police or military forces of the state be provided promptly; and if, during an actual state of emergency the Mayor shall find that the civil courts within the police jurisdiction of the city are unable to perform their lawful duties and that, by reason of widespread lawlessness, writs and other process cannot be served or executed, the Mayor shall inform the governor of his findings and may recommend to him that a state of martial law be proclaimed within the police jurisdiction of the city.

(1970 Code, § 7-14)

***Charter reference:***

*Jurisdiction of the Common Council for 1 mile  
beyond the city limits to promote the general  
welfare of the city and to protect the persons  
and property of the citizens therein, see  
Charter, § 20*

***Statutory reference:***

*Extraterritorial exercise of powers and authority  
of city, see W.V. Code, § 8-12-19*

#### **§ 39.26 END OF EMERGENCY PERIOD.**

The Mayor shall proclaim the end of such state of emergency or all or any part of the restrictions imposed as soon as circumstances warrant or when directed to do so by the Common Council.

(1970 Code, § 7-15)



**TITLE V: PUBLIC WORKS**

Chapter

**50. GARBAGE AND REFUSE**

**51. ELECTRICITY**

**52. WATER SERVICE**

**53. SEWER SERVICE**



## CHAPTER 50: GARBAGE AND REFUSE

### Section

#### ***General Provisions***

- 50.01 Definitions
- 50.02 Minimum regular service for disposal of waste
- 50.03 Obtaining minimum regular service
- 50.04 Permanent enclosures for solid waste
- 50.05 Prohibited disposal on lots, streets, sidewalks and public places
- 50.06 Refuse to be disposed of only at city refuse disposal site; exception
- 50.07 Prohibited accumulation on premises
- 50.08 Duties of owners and occupants of premises abutting streets to cut grass and weeds
- 50.09 Recourse of city upon violation
- 50.10 Conveying of garbage in unenclosed vehicle prohibited
- 50.11 Use of city's sanitary landfill site prohibited to nonresidents

#### ***Refuse Collection***

- 50.25 Short title
- 50.26 Definitions
- 50.27 Refuse containers
- 50.28 Preparation of refuse for collection
- 50.29 Storage of refuse
- 50.30 Containers to be kept clean by rinsing
- 50.31 Placement of containers for collection
- 50.32 Unauthorized collectors not to be permitted to collect or remove refuse for compensation
- 50.33 Only authorized collectors may collect and dispose of refuse for compensation
- 50.34 Grounds for denial of authority to collect refuse
- 50.35 Authorized collectors required to have city approval before changing any arrangement for disposal of refuse
- 50.36 Garbage collection vehicles

#### ***Collection Fees; Services Provided***

- 50.50 Collection fees imposed
- 50.51 Fees and services
- 50.52 When and where fees payable
- 50.53 Delinquent fees and consequences thereof

***Statutory reference:***

*Authority of Common Council to prohibit the accumulation and require the disposal of refuse, trash and the like, see W.V. Code, § 8-12-5(10)*

*Authority to provide for elimination of hazards to public health and to abate public nuisances, see W.V. Code, § 8-12-5(23)*

## **GENERAL PROVISIONS**

### **§ 50.01 DEFINITIONS.**

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

**ASHES.** The residue resulting from the burning of wood, coal, coke or other combustible material.

**GARBAGE.** All animal and vegetable wastes resulting from the handling, preparation, cooking or consumption of foods.

**REFUSE.** All solid wastes, except body wastes, and shall include garbage, ashes and rubbish.

**RUBBISH.** Glass, metal, paper, plant growth, wood or nonputrescible solid wastes.  
(1970 Code, § 11-1)

### **§ 50.02 MINIMUM REGULAR SERVICE FOR DISPOSAL OF WASTE.**

(A) Minimum regular service shall mean that service with respect to the collection, storage and disposal of solid waste deemed necessary by the Common Council to insure the safety, health and welfare of the residents of the city as set forth in all duly promulgated rules and regulations of the Council.

(B) Minimum regular service shall mean a weekly solid waste removal service sufficient to prevent the accumulation of solid waste on any premises within the city. Such minimum regular service shall be provided by either the city or any private collector recognized and approved by the city to collect, remove or dispose of solid waste; provided, that those commercial premises which presently provide their own solid waste removal service shall be deemed to have complied with the requirement of obtaining minimum regular service.

(C) An approved private collector shall mean such a collector who is in compliance with all requirements of the State Public Service Commission and whose equipment and operational methods comply with all requirements of the State Department of Health.  
(1970 Code, § 11-1.1)

### **§ 50.03 OBTAINING MINIMUM REGULAR SERVICE.**

Every owner of any premises within the city shall have the responsibility of obtaining minimum regular service for the collection, storage and disposal of solid waste.  
(1970 Code, § 11-1.2)

#### **§ 50.04 PERMANENT ENCLOSURES FOR SOLID WASTE.**

Every commercial business or establishment which has outdoor containers and collection of solid waste shall build, construct and maintain a gated permanent enclosure for such solid waste of not less than 48 inches in height and of such additional size as is adequate to enclose and protect all of its regular accumulations of solid waste.  
(1970 Code, § 11-1.3)

#### **§ 50.05 PROHIBITED DISPOSAL ON LOTS, STREETS, SIDEWALKS AND PUBLIC PLACES.**

It shall be unlawful for any person to dump, deposit or place any refuse, waste, trash, debris or any offensive or unwholesome substance or matter upon any lot, tract or parcel of land or upon any street, sidewalk or public place within the city.  
(1970 Code, § 11-1-2) Penalty, see § 10.99

***Statutory reference:***

*Authority of Common Council to prevent placing of litter, offensive matter and the like on streets, sidewalks and public places, see W.V. Code, § 8-12-5(3)*

#### **§ 50.06 REFUSE TO BE DISPOSED OF ONLY AT CITY REFUSE DISPOSAL SITE; EXCEPTION.**

It shall be unlawful to dump, burn, bury, destroy or otherwise dispose of refuse within the city, except at the refuse disposal site established or approved by the Common Council; provided, that persons licensed by the city to collect refuse, as provided in this chapter, may dispose of refuse collected by them at such places as may be authorized for such purpose in their respective licenses, and then only pursuant to the laws and ordinances in effect at such disposal places.  
(1970 Code, § 11-1-3) Penalty, see § 10.99

#### **§ 50.07 PROHIBITED ACCUMULATION ON PREMISES.**

It shall be unlawful for any person to permit any refuse, waste, trash, debris or any offensive or unwholesome substance or matter to remain or accumulate on any lot, tract or parcel of land within the city owned or occupied by such person.

(1970 Code, § 11-4) Penalty, see § 10.99

#### **§ 50.08 DUTIES OF OWNERS AND OCCUPANTS OF PREMISES ABUTTING STREETS TO CUT GRASS AND WEEDS.**

(A) *Property in residential areas.* It shall be the duty of the owner and occupant of any lot, tract or parcel of land adjacent to any street or sidewalk within any residential area of the city to cause grass, weeds and foreign growth thereon to be cut at least twice each month during the months of April, May, June, July, August, September and October of each year, and at such other times as the Mayor may direct, to prevent such lot, tract or parcel of land from becoming unsightly, unwholesome, offensive or a menace to health and safety.

(B) *Property in non-residential areas.* It shall be the duty of the owner and occupant of any lot, tract or parcel of land adjacent to any street or sidewalk within the city, but not in a residential area to cause grass, weeds and foreign growth thereon to be cut at least once each month during the months of April, May, June, July, August, September and October of each year, and at such other times as the Mayor may direct, to prevent such lot, tract or parcel of land from becoming unsightly, unwholesome, offensive or a menace to health and safety.

(1970 Code, § 11-5) (Ord. passed 8-19-2003) Penalty, see § 10.99

## **§ 50.09 RECOURSE OF CITY UPON VIOLATION.**

### **(A) *Lien created.***

(1) In case of violation of § 50.07 or § 50.08, the Mayor may give written notice to the owner or occupant of the premises involved that the failure to remove such refuse, waste, trash, debris or any offensive or unwholesome substance or matter and the failure to cut such grass, weeds and foreign growth to be cut within ten days will result in the city causing removal or cutting of the same. All expenses incurred by the city shall be chargeable to and paid by the owner of such property and the expenses so incurred shall constitute a lien on the property. The Mayor may also notify the property owner in the initial letter that subsequent violations of §§ 50.07 and 50.08 during the same year may result in the city immediately causing removal of such refuse, waste, trash, debris or offensive or unwholesome substance and/or the cutting of such grass, weeds or foreign growth with no additional advance notice. All expenses incurred by the city for subsequent removal or cutting shall also be chargeable to and paid by the owner of such property and the expenses so incurred shall constitute a lien on the property.

(2) The payment of the amount so chargeable to such owner shall not relieve him of any fine imposed for his violation or constitute a defense against any violation of the provisions of this subchapter.  
(1970 Code, § 11-6)

**(B) *Recording and enforcement of liens.*** Notice of the lien provided for by division (A) of this section shall be recorded in the County Clerk's office. Enforcement of such lien may be made in the same manner as enforcement of a judgment lien and such manner shall be in addition to any other means of enforcement or collection of such expenses that are available to the city.  
(1970 Code, § 11-7)

(C) *Service of notice.* The notice referred to in divisions (A) and (B) of this section shall be sufficient and shall be deemed to have been given when a written notice is:

(1) Delivered in person; or

(2) Deposited in the United States mail addressed to the owner of the property affected thereby at his address as it appears in the records of the city or county; or

(3) When such notice is posted on the lot, tract or parcel of land affected thereby.

(1970 Code, § 11-8) (Ord. passed 9-2-2003)

***Charter reference:***

*Authority of Common Council to create lien for charges on property, see Charter, § 27*

***Statutory reference:***

*Recording of liens in favor of municipalities, see W.V. Code, § 38-10C-1*

**§ 50.10 CONVEYING OF GARBAGE IN UNENCLOSED VEHICLE PROHIBITED.**

It shall be unlawful for any person, whether a collector for compensation or an individual disposing of garbage from his own premises, to collect, haul, transport or convey garbage in an open, unenclosed vehicle.

(1970 Code, § 11-9) Penalty, see § 10.99

**§ 50.11 USE OF CITY'S SANITARY LANDFILL SITE PROHIBITED TO NONRESIDENTS.**

No person, not a resident or business within the city, shall be permitted or allowed, for fee or otherwise, to use the sanitary landfill site for any purpose whatsoever.

(1970 Code, § 11-10)



## ***REFUSE COLLECTION***

### **§ 50.25 SHORT TITLE.**

This subchapter and §§ 50.50 *et seq.* shall be known and may be cited as the “Refuse Collection Ordinance.”

(1970 Code, § 11-11)

***Statutory reference:***

*Authority of Common Council to require the disposal of refuse, trash and the like, see W.V. Code, § 8-12-5(10)*

### **§ 50.26 DEFINITIONS.**

For the purpose of this subchapter and §§ 50.50 *et seq.*, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

***APPROVED.*** As applied to refuse containers shall mean containers which meet the requirements of and conform to the provisions of this chapter.

***AUTHORIZED COLLECTOR.*** A person having a contract with the city to collect and dispose of refuse, or a person who is authorized by ordinance, resolution or order of the Common Council to collect and dispose of refuse.

***DISPOSAL.*** The storage, collection, disposal or handling of refuse.  
(1970 Code, § 11-12)

### **§ 50.27 REFUSE CONTAINERS.**

Refuse containers shall be made of durable, water-tight, rust-resistant material, each with a close-fitting lid and handles to facilitate collection. Containers for residences shall be of not less than 10 gallons, nor more than 32 gallons in capacity. Containers for commercial establishments shall not exceed 40 gallons in capacity.  
(1970 Code, § 11-13)

### **§ 50.28 PREPARATION OF REFUSE FOR COLLECTION.**

The following rules shall be complied with prior to setting out refuse for collection.

(A) All refuse shall be drain-free of liquids before disposal.

(B) Garbage shall be wrapped in paper or similar material.

(C) All cans, bottles and other food containers shall be rinsed free of food particles and drained before disposal.

(D) Rubbish shall be:

(1) Placed in approved containers; or

(2) Cut and baled, tied, bundled, stacked or packaged so as not to exceed 36 inches in length and 50 pounds in weight.

(1970 Code, § 11-14)

**§ 50.29 STORAGE OF REFUSE.**

(A) Each householder, commercial establishment, or person having refuse shall provide himself with approved refuse containers and shall place and keep all refuse therein, except as otherwise authorized in § 50.28(D).

(B) It shall be unlawful for any person to place refuse in any street, sidewalk or any other public place, or upon private property, whether his own property or not, unless such refuse is placed in an approved container, except as otherwise authorized in § 50.28(D).

(1970 Code, § 11-15) Penalty, see § 10.99

**§ 50.30 CONTAINERS TO BE KEPT CLEAN BY RINSING.**

It shall be unlawful for any person to permit the accumulation of residue of liquids or solids, or a

combination thereof, on the bottom or sides of containers, it being the intention of this provision that the interior of containers shall be kept clean by thorough rinsing and draining as often as necessary.  
(1970 Code, § 11-16) Penalty, see § 10.99

**§ 50.31 PLACEMENT OF CONTAINERS FOR COLLECTION.**

Refuse containers shall, for the purpose of collection, be placed at ground level, and be made readily accessible to the collector. They shall be placed on the side of the street from which collection is to be made, except that householders, commercial establishments or other persons, may by agreement with their authorized collectors, be permitted to place containers at agreed places upon their own premises.  
(1970 Code, § 11-17)

**§ 50.32 UNAUTHORIZED COLLECTORS NOT TO BE PERMITTED TO COLLECT OR REMOVE REFUSE FOR COMPENSATION.**

It shall be unlawful for any person to permit an unauthorized collector to collect or remove, for compensation, refuse from a household, institution, commercial enterprise or other place within the city.  
(1970 Code, § 11-18) Penalty, see § 10.99

**§ 50.33 ONLY AUTHORIZED COLLECTORS MAY COLLECT AND DISPOSE OF REFUSE FOR COMPENSATION.**

No person shall, for compensation, collect, remove, haul or convey any refuse through or upon any of the streets or public places of the city or dispose thereof in any manner or place without authority to do so conferred by the Common Council.  
(1970 Code, § 11-19) Penalty, see § 10.99

**§ 50.34 GROUNDS FOR DENIAL OF AUTHORITY TO COLLECT REFUSE.**

No authority to collect refuse shall be granted by the Common Council to any person if the place and method of disposal shall not conform to the requirements of this chapter or to the ordinance of any county or municipal corporation wherein disposal of refuse is to be made.  
(1970 Code, § 11-20) Penalty, see § 10.99

**§ 50.35 AUTHORIZED COLLECTORS REQUIRED TO HAVE CITY APPROVAL BEFORE CHANGING ANY ARRANGEMENT FOR DISPOSAL OF REFUSE.**

No authorized collector shall make any change in the arrangements for disposal of refuse collected by him without first receiving the approval of the Common Council.  
(1970 Code, § 11-21) Penalty, see § 10.99

**§ 50.36 GARBAGE COLLECTION VEHICLES.**

All vehicles used for the collection of garbage shall be equipped with compacting devices or equivalent types of closed bodies and shall have enclosed cargo space. The Common Council may at any time require that garbage collection vehicles of authorized collectors undergo a sanitary inspection and that defects disclosed by such inspection be corrected prior to use of such vehicles thereafter for collection purposes.  
(1970 Code, § 11-22)

***COLLECTION FEES; SERVICES PROVIDED***

**§ 50.50 COLLECTION FEES IMPOSED.**

The fees, rates and charges as provided in this subchapter shall be charged, levied and imposed for

the service of collecting, pick-up, hauling and disposal of rubbish, garbage and refuse, for the purpose of making such service self-supporting.  
(1970 Code, § 11-23)

#### **§ 50.51 FEES AND SERVICES.**

(A) *For residences and households.* All residences and households shall receive 1 pick-up or collection each week and shall pay unto the city for such service the sum of \$16.50 per month; provided, that any residence or household wherein the subscriber is, at the effective date of the ordinance set forth in this section, or whenever he shall thereafter attain, the age of 65 years shall pay the sum of \$14.50 per month for such service upon the filing by the subscriber of a sworn statement of his age on forms prescribed for this purpose at City Hall.

(1970 Code, § 11-24)

(B) *For business and nonresidential users.* All businesses, commercial and nonresidential users of the trash and refuse collection service shall pay for such service a respective sum increase of 10% more of the current rates from and after the effective date of the ordinance set forth in this section. Individual businesses shall continue to be adjusted as service and usage indicate to maintain a fair and equal billing for all businesses.

(1970 Code, § 11-25)

(C) *Effective date.* This section shall be effective on and after November 1, 1995.  
(Am. Ord. passed 10-17-1995)

#### **§ 50.52 WHEN AND WHERE FEES PAYABLE.**

The rates and fees established and set forth under this subchapter shall be payable in advance upon billing thereof by the City Clerk's office.

(1970 Code, § 11-27)

**§ 50.53 DELINQUENT FEES AND CONSEQUENCES THEREOF.**

If any fee, rate or charge provided for or established under this subchapter shall not be paid within 30 days after the due date thereof, the amount may be recovered by the city in any appropriate legal action; and upon the failure of any person receiving such service to pay for the same when due, the city may discontinue such service in accordance with the applicable rules of the West Virginia Public Service Commission.  
(1970 Code, § 11-28)



## CHAPTER 51: ELECTRICITY

### Section

- 51.01 Standards to be met
- 51.02 Permit required for construction, installation and the like of electrical wiring; exceptions
- 51.03 Application for permit
- 51.04 Permit fees
- 51.05 Imposition of fine or penalty for doing work without required permit no bar to further relief for city

### § 51.01 STANDARDS TO BE MET.

In the construction, installation, erection, maintenance, use, repair, extension or alteration, removal or dismantling of any electrical wiring, apparatus, fixture or device or any part thereof, the specifications to be met, the materials and devices to be used, the methods to be employed and the standards of workmanship shall conform to nationally accepted standards as stated in publications of recognized experts in the field of electrical engineering; compliance with the provisions of the current edition of the National Building Code, recommended by the American Insurance Association, shall be prima facie evidence of compliance with this section.

(1970 Code, § 9-1)

#### ***Statutory reference:***

*Authority of Common Council to regulate electric*

*wiring by prescribing minimum specifications to*

*be followed in the installation, alteration or repair thereof, see W.V. Code, § 8-12-13(2)*

### § 51.02 PERMIT REQUIRED FOR CONSTRUCTION, INSTALLATION AND THE LIKE OF ELECTRICAL WIRING; EXCEPTIONS.

Before any person shall undertake to construct, install, erect, repair, extend or alter, remove or dismantle any electrical wiring, apparatus, fixture or device or any part thereof he shall first obtain a permit to do so from the City Clerk, to be issued only upon a directive from the Building Inspector; provided, that this section shall not be applicable to public utility companies upon their own premises or upon premises or rights-of-way under their operational control, nor shall this section apply to any person to whom a permit is granted by authority of a resolution of the Common Council.

(1970 Code, § 9-2)



***Statutory reference:***

*Authority of Common Council to require permit  
to do electrical work, see W.V. Code, § 8-12-14*

**§ 51.03 APPLICATION FOR PERMIT.**

Before the Building Inspector shall direct the issuance of a permit as required by this chapter he shall require the applicant for such permit to furnish, in writing, the following information: the location and description of the premises upon which the work is to be done; approximate age of the building upon or within which the work is to be done; and a brief description of the work to be done and the electrical wiring, apparatus and devices involved.

(1970 Code, § 9-3)

**§ 51.04 PERMIT FEES.**

The Common Council may by resolution promulgate a schedule of fees to be charged for permits issued pursuant to this chapter and for inspections required by the terms of such permits.  
(1970 Code, § 9-4)

**§ 51.05 IMPOSITION OF FINE OR PENALTY FOR DOING WORK WITHOUT REQUIRED PERMIT NO BAR TO FURTHER RELIEF FOR CITY.**

The imposition of a fine or other penalty for doing any work for which a permit is required by this chapter, without having obtained such permit, shall not preclude the city from instituting an appropriate action or proceeding to prevent any further unlawful acts or to remedy any dangerous condition resulting from any unlawful act.  
(1970 Code, § 9-5)

## **CHAPTER 52: WATER SERVICE**

### **Section**

- 52.01 Water connection charge
- 52.02 Establishment of water rates; special rates authorized in specific cases
- 52.03 Authority to require measuring devices
- 52.04 Water service bills
- 52.05 Cross-connection control and backflow prevention program

### **§ 52.01 WATER CONNECTION CHARGE.**

There is imposed a special water connection and/or disconnection charge for each seasonal or temporary connection and disconnection made at the request of the customer in the sum set forth in the water tariff rates approved by the West Virginia Public Service Commission which such charge or charges shall be in addition to all charges made for water supplied by the city and shall be a charge against the owner of record of the premises so connected or disconnected with or from the city water system and shall be billed and collected with and as a part of the water service charge of such premises. (1970 Code, § 21-19) (Am. Ord. passed 3-16-1988)

### **§ 52.02 ESTABLISHMENT OF WATER RATES; SPECIAL RATES AUTHORIZED IN SPECIFIC CASES.**

(A) The Common Council, by ordinance or resolution, which may be amended from time to time to meet the necessities of changing conditions, shall establish a schedule of just and equitable rates or charges for water supplied and service rendered by the city water system, which shall be paid by the owner of

each and every lot, parcel of real estate or building connected with, served by or using the city water system. The rates and charges so established shall be based, insofar as possible, upon the quantity of water supplied each month to the respective premises as such water is measured by the meter or meters therein used; the rates and charges so established shall be charged monthly to the owners of each lot, parcel of real estate or building supplied with water from the city water system.

(B) Ordinances and resolutions and amendments thereof, as provided in division (A) of this section, shall not become effective until they have been approved by the State Public Service Commission.

(C) Until such time as an ordinance or resolution is adopted or amended as provided in division (A) of this section, the rates and charges to be made for water supplied and service rendered by the city water system shall be those in effect immediately prior to the effective date of this code.  
(1970 Code, § 21-20)

### **§ 52.03 AUTHORITY TO REQUIRE MEASURING DEVICES.**

The city may require the owners of property connected to the city water system to install water meters or other suitable water-measuring devices upon or adjacent to such property, such meters or devices to be connected to the water intake pipes between their connections with the city water mains and the plumbing systems served thereby.  
(1970 Code, § 21-21)

#### **§ 52.04 WATER SERVICE BILLS.**

(A) *When due; penalty for delinquency; means of enforcement.* All bills for city water services shall be rendered monthly and shall be due when mailed to the last known address of the person in debt therefor, and a penalty in an amount set forth in the water tariff rates approved by the West Virginia Public Service Commission shall be added to those not paid on or before the twentieth day of the month following the meter reading date. Each bill shall be a debt due the city and the amount thereof shall be a lien upon the premises served by the city water system, and if the bill is not paid within 30 days after due it shall be deemed delinquent and the amount thereof shall be recovered by the city in a civil action in the name of the city, together with the penalty aforesaid and the lien created in connection with any such action shall be foreclosed in due course against the property charged with the amount due.

(1970 Code, § 21-22)

(B) *To whom bills rendered; lien not to be impaired.* Water service charges and rates shall be billed to the owners of the properties connected with the city water system; provided, that upon application by the tenant of any premises who is not the owner, filed with the City Clerk and accompanied by a security deposit of not less than \$20 nor more than \$100, as determined by the City Clerk and based upon the estimated monthly charge for water expected to be supplied per month, such bills may be rendered to the tenant; provided further, that the rendering of a bill to a tenant who is not the owner of the premises shall not affect or impair the lien therefor on such premises, nor shall such rendition affect or impair the right of the city to foreclose such lien in the event any such bill becomes delinquent as hereinbefore provided.

(1970 Code, § 21-23)

(C) *State law.* Sections 52.02 through 52.04 shall be read in conjunction with the corresponding provisions of the laws of the State of West Virginia as more particularly contained and set forth in W.V. Code, Chapter 16, Art. 13A, § 9, as amended, and nothing herein provided or set forth herein shall be

construed as being either an expansion or limitation of the powers, duties, privileges and authority granted by the said state statute to municipalities.

(Am. Ord. passed 3-16-1988)

***Charter reference:***

*Liens for city assessments, see Charter, § 27*

**§ 52.05 CROSS-CONNECTION CONTROL AND BACKFLOW PREVENTION PROGRAM.**

(A) The Common Council of the city has determined that it is necessary to implement a Cross-Connection Control and Backflow Prevention Program to prevent the public potable water supply from possible contamination by isolating, within its customer's internal distribution systems, such contaminants or pollutants which could backflow or back-siphon into the potable water supply system.

(B) The Cross-Connection Control and Backflow Prevention Program shall be set forth in regulations entitled the "Cross-Connection Control and Backflow Prevention Program," a copy of which regulations shall be on file at City Hall and with the Water Plant Operator.

(C) The "Cross-Connection Control and Backflow Prevention Program" shall be implemented by the Water Plant Operator and the City Supervisor who shall be responsible for the protection of the public potable water distribution system from contamination or pollution due to the backflow or back-siphon of contaminants or pollutants through the water service connection.

(D) In addition, all users of municipal water shall be responsible for complying with the provisions of the Cross-Connection Control and Backflow Prevention Program.

(Am. Ord. passed 4-2-2002)

## CHAPTER 53: SEWER SERVICE

### Section

#### *Regulations*

- 53.01 Privies, privy vaults and cesspools prohibited
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### **REGULATIONS**

#### **§ 53.01 PRIVIES, PRIVY VAULTS AND CESSPOOLS PROHIBITED.**

It shall be unlawful for any person to erect, construct or maintain any privy, privy vault or

cesspool within the city.  
(1970 Code, § 21-1) Penalty, see § 10.99

#### **§ 53.02 ALL TOILETS TO BE FLUSH TYPE AND CONNECTED TO CITY SEWER SYSTEM.**

All toilets in the city shall be connected with the city sewer system and the inlet of water thereto, so that they can be flushed and kept in a clean and sanitary condition at all times.  
(1970 Code, § 21-2)

#### **§ 53.03 TOILETS FOR CONVENIENCE OF THE PUBLIC OR OCCUPANTS OF BUILDINGS OPEN TO PUBLIC.**

(A) *Installation and maintenance.* All toilets in the city which are for the convenience of the public, or which are for the convenience of occupants of buildings open to the public, shall be installed and maintained in conformity with the requirements of the State Department of Health.  
(1970 Code, § 21-3)

(B) *Inspection by health officers; compliance with notices of health officers.* All toilets in the city





which are for the convenience of the public, or which are for the convenience of occupants of buildings open to the public, shall be subject to inspection from time to time by public health officers having jurisdiction within the city; all owners and persons in charge of buildings which have toilets for the convenience of the public or for the convenience of occupants of buildings open to the public shall comply with all orders and notices given them by public health officers with respect to such toilets.

(1970 Code, § 21-4)

#### **§ 53.04 PROPERTIES TO BE CONNECTED TO FUTURE EXTENSIONS OF CITY SEWER SYSTEM.**

All owners and occupants of houses, apartments, hotels, motels, trailer camps, manufacturing or commercial establishments or any other buildings of any kind situated upon lots abutting upon any street, alley or easement, in which there is hereafter installed a sewer line which is a part of any future extension or improvement to the city sewer system shall, within 90 days from the date such sewer line is installed and placed in operation, connect therewith all sewerage drain pipes of such houses, apartments, hotels, motels, trailer camps, manufacturing or commercial establishments or other buildings, conveying sewerage therefrom into such sewer line, such connections to be made under such regulations as the Sanitary Board of the city may establish; failure to do so is declared to be unlawful and to constitute a nuisance.

(1970 Code, § 21-5)

#### **§ 53.05 DUTY OF ARCHITECTS, BUILDERS AND THE LIKE UPON FUTURE ERECTION OF BUILDINGS UPON LOTS ABUTTING CITY SEWERS.**

(A) All architects, contractors, builders and other persons who shall hereafter erect new buildings for dwelling, manufacturing, or commercial purposes, on a lot or parcel of ground abutting on a street, alley or easement in which there is installed and maintained a city sewer line shall, before erecting any such

building, exhibit to the Sanitary Board satisfactory evidence that a means has been or will be provided for connecting the sewerage drain from such building with the city sewage system.

(B) The reuse of existing building sewers for any purpose other than that originally approved by the city or its representatives shall be subject to resubmission by the user for approval by the Sanitary Board before the changed condition is effected.

(1970 Code, § 21-6)

#### **§ 53.06 MINIMUM GRADES AND SIZES FOR CONNECTIONS; MATERIALS GENERALLY; INSPECTION AND APPROVAL OF CONSTRUCTION.**

(A) Minimum grades for house and other user connections shall be one-eighth inch per foot and minimum size shall not be less than 4 inches in diameter and made of material which is acceptable to federal, state or other governing agencies and applicable codes.

(B) All sewer construction and connections shall be subject to the inspection and approval of the city's representative before being placed in service. Safety of the worker shall be of the utmost importance during construction.

(1970 Code, § 21-7)

#### **§ 53.07 PROHIBITED AND RESTRICTED DISCHARGES INTO SEWER.**

(A) Storm and surface water shall not be permitted to freely and purposely enter the sanitary sewer system. In no event shall any accessory drains such as foundation drains, roof drains or yard drainage be connected to the sanitary system. No cross connections between the sanitary sewers and storm sewers shall be allowed and if an existing cross connection is discovered by any builder or owner it shall be reported to the Sanitary Board immediately and eliminated as directed by the Board.

(B) Any discharge into the system from an industrial or commercial user will be subject to inspection by the city's representative. This will be by means of a "control manhole" if so directed to be constructed by the user for that specific purpose. No inadmissible waste will be permitted beyond this point. Any adjustment required in the sewage shall be accomplished by the user before it reaches the control manhole.

(C) Toxic materials in concentrations which might interfere with biological treatment processors will be permitted only if after thorough study and evaluation their impact proves acceptable.

(D) Any operation or using unit that discharges waste water into the system at an elevated or depressed temperature that detrimentally affects the effluent temperature at the river (storm) or the influent temperature of the lagoon will be subject to adjustment by the user before discharging it into the city's system.

(E) If solids (examples, ground garbage, sand, gravel, road grit, and the like) emanating from any operation or using unit that discharges into the system causes problems of sedimentation, plugging, pumping, discoloration, or other effects not compatible with the successful or efficient operation of the system, the duty and responsibility of correcting the solids condition to the satisfaction of the city is upon the owner of the using unit.

(F) The pH of an influent mixture entering the systems from a user source shall be 7 plus or minus 0.2. The city shall have the authority to direct adjustment necessary to meet this requirement and the cost of any and all pretreatment required shall be borne by the user.

(G) No oils shall be discharged into either storm or sanitary sewers. The presence of free oil or discoloration of the effluent from a user will not be permitted.  
(1970 Code, § 21-8)

**§ 53.08 AUTHORITY TO OBTAIN SAMPLES FOR MEASUREMENT; DAMAGES TO SEWER SYSTEM.**

(A) The city shall have the right to take whatever measures necessary to obtain samples for analytical or flow measurement purposes, provided that any conditions or property disturbed will be reasonably restored to its original status by the city.

(B) No person or persons shall perform or permit any trespass or malicious damage on or to any part of the sewer systems, including, but not limited to, the piping system, manholes, pumping stations, and all parts of the stabilization pond (lagoon to include pump house, perimeter fence, dikes, outlet pipe, and the like). All persons in violation of this section shall be subject to punishment by law.

(1970 Code, § 21-9)

***CONNECTIONS, SERVICE  
CHARGES, AND BILLINGS***

**§ 53.20 SEWER CONNECTION CHARGE AND PENALTY FOR TARDY PAYMENT THEREOF;  
HOW BILLED.**

There is imposed a sewer connection charge as set forth in the sewer rates approved by the West Virginia Public Services Commission for each connection with the city sewer system, which shall be payable as a whole within 90 days after date of such connection. This charge shall be in addition to the regular sewer tapping charge and shall be against the owner of record of the premises so connected with the city sewer system and shall be billed and collected with and as a part of the sewer service charge to the respective premises.

(1970 Code, § 21-13)

**§ 53.21 ESTABLISHMENT OF SEWER RATES AND CHARGES; SPECIAL RATES OR SPECIAL SEWAGE TREATMENT AUTHORIZED IN SPECIFIC CASES.**

(A) The Common Council, by ordinance or resolution which may be amended from time to time to meet the necessities of changing conditions, shall establish a schedule of just and equitable rates or charges for the use of and service rendered by the city sewage system, which shall be paid by the owner of each and every lot, parcel of real estate or building connected with, served by or using such sewage system. In the event the sewage, water or other liquid wastes being discharged into the sanitary sewers from any building or premises is determined by the city to contain unduly high concentrations or any substances which add to the operating costs of the city sewage system, then the city may establish special rates or charges as to such class of buildings or premises, or the city may require the owner or other interested party to specially treat such sewage water or other liquid wastes before it is discharged into the city sewage system.

(B) Ordinances and resolutions and amendments thereof, as provided in division (A) of this section, shall not become effective until they have been approved by the State Public Service Commission.

(C) Until such time as an ordinance or resolution is adopted or amended as provided in division (A) of this section, the rates and charges for the use of and service rendered by the city sewage system shall be those in effect immediately prior to the effective date of this code.

(1970 Code, § 21-14)

**§ 53.22 AUTHORITY TO REQUIRE MEASURING DEVICES TO DETERMINE SEWER CHARGES.**

(A) Whenever a building or premises discharging sewage, water or other liquid wastes into the city sewage system uses water supplied on other than a metered basis from either a private or public

water supply, the owner or occupant may be required to cause a water meter or other measuring device to be installed.

(B) Whenever a building or premises uses water in excess of \$10,000 per month and it can be shown that a substantial portion of the water used does not and cannot enter the sewage system, the city may require or permit the installation of additional meters or measuring devices in such a manner as to determine the quantity of water, sewage or liquid waste actually entering the city sewage system.  
(1970 Code, § 21-15)

### **§ 53.23 SEWER SERVICE BILLS.**

(A) *When due; penalty for delinquency; means of enforcement.* All bills for city sewer services shall be rendered monthly and shall be due when mailed to the last known address of the person in debt therefor, and a penalty of 10% of the amount of all such bills shall be added to those not paid on or before 10 days from the date of such mailing. Each bill shall be a debt due the city and the amount thereof shall be a lien upon the premises served by the city sewer system, and if the bill is not paid within 30 days after due it shall be deemed delinquent and the amount thereof shall be recovered by the city in a civil action in the name of the city, together with the penalty aforesaid and the lien created in connection with any such action shall be enforced in due course against the lot, parcel of land or building charged with the amount due.  
(1970 Code, § 21-16)

(B) *To whom bills rendered; lien not to be impaired.* Sewer service rates and charges shall be billed to the owners of each and every lot, parcel of real estate or building connected with, served by, or using the city sewer system; provided, that upon application by the tenant of any premises who is not the owner, filed with the Sanitary Board or City Clerk and accompanied by appropriate security or indemnity in an amount and of a kind approved by the Sanitary Board, such bills may be rendered to the tenant; provided further, that the rendering of a bill to a tenant who is not the owner of the premises shall not

affect or impair the lien therefor on such premises, nor shall such rendition affect or impair the right of the city to foreclose such lien in the event any such bill becomes delinquent as hereinbefore provided.  
(1970 Code, § 21-17)

***Charter reference:***

*Liens for city assessments, see Charter, § 27*

**§ 53.24 JOINT SEWER AND WATER BILLS.**

Charges for sewer services shall be billed jointly with charges made for water services to the respective premises, and payment of such charges for sewer services shall be required by each customer at the same time as the payment for water services.

(1970 Code, § 21-18)

***Cross reference:***

*Water service, see Chapter 52*

**TITLE VII: TRAFFIC CODE**

Chapter

**70. GENERAL PROVISIONS**

**71. TRAFFIC REGULATIONS**

**72. DRIVING WHILE INTOXICATED AND RECKLESS  
DRIVING**

**73. STOPPING, STANDING AND PARKING**

**74. PEDESTRIANS**

**75. BICYCLES**

**76. ALL-TERRAIN VEHICLES**

**77. PARKING SCHEDULES**





## CHAPTER 70: GENERAL PROVISIONS

### Section

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- 70.002 Applicability to persons riding animals or driving animal-drawn vehicles
- 70.003 Compliance required; exception
- 70.004 Obedience to police officers; authority of police officers to deviate from provisions
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***Statutory reference:***

*Registration of motor vehicles, certificates of title and anti-theft provisions, see W.V. Code, §§ 17A-1-1 et seq.*  
*Motor vehicle safety responsibility law, see W.V. Code, §§ 17D-1-1 et seq.*

## ***GENERAL PROVISIONS***

### **§ 70.001 DEFINITIONS.**

Except as otherwise expressly provided in this title, the words and phrases used in this chapter which are the same as those defined in W.V. Code, Chapter 17C, Art. 1 shall have the meanings respectively ascribed to them in that article and chapter of the Code of West Virginia.

***AUTHORIZED EMERGENCY VEHICLE.*** Police vehicles, vehicles of the Fire Department, personal vehicles of the members of the Fire Department when such vehicles bear identification plates or stickers as provided in § 35.11, and such public or private ambulances and other emergency vehicles as may be designated by the Chief of Police as ***AUTHORIZED EMERGENCY VEHICLES.***

***POLICE OFFICER.*** Any city police officer, any member of the Fire Department at the scene of a fire, and any other person lawfully authorized to direct traffic within the city.

***TRAFFIC-CONTROL DEVICES.*** All signs, signals, markings and devices not inconsistent with the law, this code or other ordinance, placed or erected by authority of the state or an officer or body having authority of the state so to do, or by authority of the Common Council, for the purpose of regulating, warning or guiding traffic or the stopping, standing or parking of vehicles.  
(1970 Code, § 20-1)

### **§ 70.002 APPLICABILITY TO PERSONS RIDING ANIMALS OR DRIVING ANIMAL-DRAWN VEHICLES.**

Every person riding an animal or driving an animal-drawn vehicle 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 title, except those provisions of this title which, by their very nature, can have no application.

(1970 Code, § 20-2)

***Statutory reference:***

*Corresponding provisions of state motor vehicle law, see W.V. Code, § 17C-2-6*

**§ 70.003 COMPLIANCE REQUIRED; EXCEPTION.**

It shall be unlawful for any person to do any act forbidden or fail to perform any act required in this title, except in compliance with the directive of a police officer.

(1970 Code, § 20-3) Penalty, see § 70.999

**§ 70.004 OBEDIENCE TO POLICE OFFICERS; AUTHORITY OF POLICE OFFICERS TO DEVIATE FROM PROVISIONS.**

No person shall fail to comply with any lawful order, signal or directive of a police officer. In case of an emergency and traffic conditions or the public safety so requires, police officers may deviate from the provisions of this title to the extent necessary to regulate traffic and protect the public safety.

(1970 Code, § 20-4)

**§ 70.005 OBEDIENCE TO TRAFFIC-CONTROL INSTRUCTIONS AT SITE OF STREET OR HIGHWAY CONSTRUCTION OR MAINTENANCE.**

The driver of any vehicle shall obey the traffic-control instructions of persons authorized by the state or by proper city authorities to operate traffic-control devices, act as flagmen, or operate follow-vehicles at or near the site of street or highway construction or maintenance work for the purpose of regulating, warning or guiding traffic, subject to the

exceptions granted the driver of an authorized emergency vehicle in this chapter.  
(1970 Code, § 20-5)

***Statutory reference:***

*For corresponding provisions of state motor vehicle law, see W.V. Code, § 17C-3-4a*

**§ 70.006 OBEDIENCE OF PUBLIC OFFICERS AND EMPLOYEES; CHAPTER INAPPLICABLE TO PERSONS ENGAGED IN HIGHWAY SURFACE WORK.**

(A) The provisions of this title applicable to the drivers of vehicles upon the streets shall apply to the drivers of all vehicles owned or operated by the United States, this state, or any county, city, town, district, or any other political subdivision of the state, except as provided in this section and subject to such specific exceptions as are set forth in this title with reference to authorized emergency vehicles.

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

(1970 Code, § 20-6)

***Statutory reference:***

*Corresponding provisions of state motor vehicle law, see W.V. Code, § 17C-2-4*

**§ 70.007 AUTHORIZED EMERGENCY VEHICLES.**

(A) The driver of an authorized emergency vehicle, when responding to an emergency call or when in the pursuit of an actual or suspected violator of the law or when responding to but not upon returning from a fire alarm, may exercise the privileges set forth in this section, but subject to the conditions herein stated.

(B) The driver of an authorized emergency vehicle may:

- (1) Park or stand, irrespective of the provisions of this title;
- (2) Proceed past a red or stop signal or stop sign, but only after slowing down as may be necessary for safe operation;
- (3) Exceed the speed limits so long as he does not endanger life or property;
- (4) Disregard regulations governing direction of movement of turning in specified directions.

(C) The exemptions herein granted to an authorized emergency vehicle shall apply only when the driver of any such vehicle while in motion sounds audible signal by bell, siren, or exhaust whistle as may be reasonably necessary, and when the vehicle is equipped with at least 1 lighted lamp displaying a red light visible under normal atmospheric conditions from a distance of 500 feet to the front of such vehicle, except that an authorized emergency vehicle operated as a police vehicle or being the personal vehicle of a member of the Fire Department need not be equipped with or display a red light visible from in front of the vehicle.

(D) The foregoing provisions shall not relieve the driver of an authorized emergency vehicle from the duty to drive with due regard for the safety of all persons, nor shall such provisions protect the driver from the consequences of his reckless disregard for the safety of others.

(1970 Code, § 20-7)

***Statutory reference:***

*For corresponding provisions of state motor vehicle law, see W.V. Code, § 17C-2-5*

**§ 70.008 PROVISIONS NOT TO INTERFERE WITH RIGHTS OF OWNERS OF REAL PROPERTY.**

Nothing in this title shall be construed to prevent the owner of real property used by the public for purposes of vehicular travel by permission of such



owner and not as a matter of right from prohibiting such use or from requiring other or different or additional conditions than those specified in this title or otherwise regulating such use as may seem best to such owner.  
(1970 Code, § 2-8)

***Statutory reference:***

*Corresponding provisions of state motor vehicle law, see W.V. Code, § 17C-2-9*

**§ 70.009 UNAUTHORIZED TAMPERING AND THE LIKE WITH MOTOR VEHICLES.**

It shall be unlawful for any person, without authority of the owner or person in charge of any motor vehicle, to climb upon or into, or swing upon, any such vehicle, whether it is in motion or at rest, or to sound any horn or any signaling device, or attempt to manipulate any of the levers, the starter, brakes, or machinery thereof, or set such vehicle in motion, or damage, tamper or interfere therewith.

(1970 Code, § 20-9) Penalty, see § 70.999

***VEHICLE EQUIPMENT AND USE***

**§ 70.020 REQUIRED EQUIPMENT AND GEAR MUST BE IN GOOD OPERATING CONDITIONS.**

It shall be unlawful for any person to drive a vehicle upon the streets of this city unless all of the following and the safety devices required for such vehicle under the provisions of W.V. Code, Chapter 17, Art. 15 be in such condition as to operate effectively and be under the control of the driver at all times:

(A) Lamps, lighting equipment and reflectors;

(B) Brakes;

(C) Horns and warning devices;

(D) Mufflers;

(E) Windshield wipers; and

(F) Other operating gear.

(1970 Code, § 20-10) Penalty, see § 70.999

***Statutory reference:***

*Equipment and lights required for motor vehicles and use thereof, see W.V. Code, §§ 17C-15-1 et seq.*

**§ 70.021 WHEN LIGHTED LAMPS REQUIRED.**

During the period beginning one-half hour after sunset and one-half hour before sunrise, and at any other time when there is insufficient light to render clearly discernible persons and vehicles on the street at a distance of 500 feet, every vehicle upon a street in this city shall display lighted lamps at the front and rear of such vehicle, except as otherwise provided in this title for vehicles which are parked.

(1970 Code, § 20-11)

***Statutory reference:***

*Corresponding provisions of state motor vehicle law, see W.V. Code, § 17C-15-2*

*Type of head and tail lamps required, see  
W.V. Code, §§ 17C-15-4 to 17C-15-30*

**§ 70.022 USE OF CUT-OUT PROHIBITED; ADEQUATE MUFFLER REQUIRED.**

It shall be unlawful for an operator of any motor vehicle to use the cut-out thereof while on any of the streets of the city or to operate such motor vehicle without a proper and adequate muffler properly adjusted thereon.

(1970 Code, § 20-12) Penalty, see § 70.999

**§ 70.023 HORNS NOT TO BE USED TO MAKE UNNECESSARY NOISE.**

It shall be unlawful for the operator of any vehicle to use the horn or other signaling device of such vehicle for the purpose of making unnecessary noise.

(1970 Code, § 20-13) Penalty, see § 70.999

***TRAFFIC-CONTROL DEVICES***

**§ 70.035 DEFINITION.**

For the purposes of this subchapter, the term ***COMPETENT AUTHORITY*** shall mean the State Highway Department or other agency or officer authorized by state law to place, erect or install traffic-control devices within municipalities in this state or the Common Council of this city.

(1970 Code, § 20-14)

***Statutory reference:***

*Definition of traffic-control devices, see*

*W.V. Code, 17C-1-47*

*Traffic-control devices, see W.V. Code,*

*§§ 17C-3-1 et seq.*

**§ 70.036 INSTALLATION; SPECIFICATIONS; STATE APPROVAL REQUIRED TO PLACE DEVICES UPON STATE HIGHWAYS.**

(A) The City Maintenance Supervisor shall place and maintain all traffic-control devices, including signs, markings and signals, when and as required by the provisions of this title or other ordinances of the city, to make such provisions effective. All traffic-control devices placed within the city shall conform to the requirements and specifications of the Manual for a Uniform System of Traffic-Control Devices promulgated by the State Department of Highways.

(B) No traffic-control device shall be placed upon any street which is part of the state highway system except by permission of the State Department of Highways.

(1970 Code, § 20-15)

***Statutory reference:***

*Manual of Specifications for Uniform System of*

*Traffic-Control Devices, see W.V. Code,*

*§ 17C-3-1*

*Similar state law, see W.V. Code, § 17C-3-2*

**§ 70.037 EFFECT OF PREVIOUSLY INSTALLED TRAFFIC-CONTROL DEVICES.**

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

(1970 Code, § 20-16) Penalty, see § 70.999

**§ 70.038 OBEDIENCE TO TRAFFIC-CONTROL DEVICES; OFFICIAL SIGNS TO BE IN PROPER POSITION.**

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

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

(1970 Code, § 20-17)

***Statutory reference:***

*Corresponding provisions of state motor vehicle law, see W.V. Code, § 17C-3-4*

**§ 70.039 TRAFFIC-CONTROL SIGNAL LEGEND.**

Whenever traffic is controlled by traffic-control signals exhibiting the words “Go,” “Caution,” or “Stop,” or exhibiting different colored lights

successively one at a time, or with arrows, the following colors only shall be used and those terms and lights shall indicate and apply to drivers of vehicles and pedestrians as follows.

(A) *Green alone or "Go."*

(1) Vehicular traffic facing the signal may proceed straight through, subject to the requirement to stop at a railroad crossing at which an official "Stop" sign is in place, or turn right or left unless a sign at such place prohibits either such turn. But vehicular traffic, including vehicles turning right or left, shall yield the right-of-way to other vehicles and to pedestrians lawfully within the intersection or an adjacent crosswalk at the time such signal is exhibited.

(2) Pedestrians facing the signal may proceed across the roadway within any marked or unmarked crosswalk.

(B) *Yellow alone or "Caution" when shown following the green or "Go" signal.*

(1) Vehicular traffic facing the signal is thereby warned that the red or "Stop" signal will be exhibited immediately thereafter and such vehicular traffic shall not enter or be crossing the intersection when the red or "Stop" signal is exhibited.

(2) Pedestrians facing such signal are thereby advised that there is insufficient time to cross the roadway, and any pedestrian then starting to cross shall yield the right-of-way to all vehicles.

(C) *Red alone or "Stop."*

(1) Vehicular traffic facing the signal shall stop before entering the crosswalk on the near side of the intersection or, if none, then before entering the intersection and shall remain standing until green or "Go" is shown alone.

(2) No pedestrian facing such signal shall enter the roadway unless he can do so safely and without interfering with any vehicular traffic.

(D) *Red with green arrow.*

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

(2) No pedestrian facing such signal shall enter the roadway unless he can do so safely and without interfering with any vehicular traffic.

(E) In the event an official traffic-control signal is erected and maintained at a place other than an intersection, the provisions of this section shall be applicable except as to those provisions which by their nature can have no application. Any stop required shall be made at a sign or marking on the pavement indicating where the stop shall be made, but in the absence of any such sign or marking the stop shall be made at the signal.

(1970 Code, § 20-18)

***Statutory reference:***

*For corresponding provisions in state motor vehicle law, see W.V. Code, § 17C-3-5*

**§ 70.040 PEDESTRIAN WALK AND WAIT SIGNALS.**

Whenever special pedestrian-control signals exhibiting the words “Walk,” “Don’t Walk” or “Wait” are in place such signals shall indicate as follows.

(A) “*Walk.*” Pedestrians facing such signal may proceed across the roadway in the direction of the signal and shall be given the right-of-way by the drivers of all vehicles.

(B) “*Don’t Walk*” or “*Wait.*” No pedestrian shall start to cross the roadway in the direction of such signal, but any pedestrian who has partially completed his crossing on the walk signal shall proceed to a

sidewalk or safety island while the wait signal is showing.  
(1970 Code, § 20-19)

**Statutory reference:**

*For corresponding provisions of state motor vehicle law, see W.V. Code, § 17C-3-6*

**§ 70.041 FLASHING SIGNALS.**

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

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

(B) *Flashing yellow (caution signal)*. When a yellow lens is illuminated with rapid intermittent flashes, drivers of vehicles may proceed through the intersection or past such signal only with caution.

(1970 Code, § 20-20)

**Statutory reference:**

*For corresponding provisions of state motor vehicle law, see W.V. Code, § 17C-3-7*

**§ 70.042 NO-TURN SIGNS; MARKERS AND DIRECTIVES AS TO TURNING MOVEMENTS.**

Whenever traffic-control signs are placed, erected or installed by competent authority indicating that no right, left or "U" turn is permitted, no driver of a vehicle shall disobey the directions of any such sign; when authorized markers, buttons or other markings are placed within an intersection indicating the course to be traveled by vehicles traveling or turning thereat, no driver of a vehicle shall disobey the directions of such indications.

(1970 Code, § 20-21)

**§ 70.043 ONE-WAY STREET SIGNS.**

Whenever traffic-control signs are placed, erected or installed by competent authority indicating that traffic shall proceed only in a certain direction, no driver of a vehicle shall disobey the directions contained in or given by such signs.

(1970 Code, § 20-22)

**§ 70.044 STOP AND YIELD SIGNS.**

(A) *General.*

(1) Whenever traffic-control stop signs are placed, erected or installed by competent authority indicating that vehicles shall be brought to a stop before proceeding into an intersection, no driver of a vehicle shall disobey the directions contained in or given by such signs, nor shall he proceed into any such intersection until he has first determined that no conflict with traffic will be involved.

(2) Whenever traffic-control yield or yield right-of-way signs are placed, erected or installed by competent authority indicating that no vehicle shall enter an intersection without first yielding the right-of-way

to other vehicles approaching from any direction, no driver of a vehicle shall disobey the directions contained in or given by such signs, nor shall he proceed into any such intersection until he has first determined that no conflict with traffic will be involved.

(1970 Code, § 20-23)

(B) *Stop signs at intersections of through streets.* The Common Council, with reference to streets which are not state highways, may designate streets or portions thereof as through streets and may direct that stop signs be placed at entrances to intersections thereof.

(1970 Code, § 20-24)

***Statutory reference:***

*Erection of stop signs, see W.V. Code,  
§ 17C-12-5*

#### **§ 70.045 SPEED LIMIT ZONES.**

Whenever traffic-control signs are placed, erected or installed by competent authority, pursuant to the provisions of W.V. Code, §§ 17C-6-2, 17C-6-3, 17C-6-3a or 17C6-5, giving notice of a maximum or minimum speed limit, no driver of a vehicle shall drive in excess of such maximum speed or slower than such minimum speed.

(1970 Code, § 20-25)

#### **§ 70.046 NO PASSING ZONES.**

(A) Whenever traffic-control signs or traffic-control markings are placed, painted or installed by competent authority indicating that no vehicle shall overtake and pass another vehicle, no driver of a vehicle shall disobey the directions of any such sign or markings.

(B) Two solid lines marked side by side and lengthwise on a roadway shall indicate that no vehicle shall overtake and pass another vehicle regardless of the lane or direction in which such vehicles are moving; a solid line marked side by side to a broken line on a roadway shall indicate that a vehicle in the same lane as the broken line may overtake and pass another vehicle in that lane, and that no vehicle in the lane bounded by the solid line shall overtake and pass another vehicle.

(1970 Code, § 20-26)

#### **§ 70.047 ZONES OF QUIET.**

Whenever traffic-control signs are placed, erected or installed by competent authority indicating a zone of quiet, no person operating a motor vehicle within any such zone shall sound the horn or other warning device of such vehicle except in an emergency, nor shall he permit a radio to emit sound that can be heard above the sound of traffic within such zone, or make any unnecessary noise.

(1970 Code, § 20-27)



#### **§ 70.048 SCHOOL ZONES.**

Whenever traffic-control signs are placed, erected or installed by competent authority indicating any street or part thereof is a school zone, all drivers of motor vehicles using such street or part thereof shall exercise the greatest care in driving for the protection of children.  
(1970 Code, § 20-28)

#### **§ 70.049 PLAY STREETS.**

Whenever traffic-control signs are placed, erected or installed by competent authority indicating any street or part thereof is a play street, no person shall drive a vehicle upon any such street or portion thereof, except drivers of vehicles having business or whose residences are within such closed area, and then any such driver shall exercise the greatest care in driving upon any such street or portion thereof.  
(1970 Code, § 20-29)

#### **§ 70.050 SIGNS INDICATING VEHICLES OF CERTAIN TYPES OR WEIGHT PROHIBITED ON CERTAIN STREETS.**

Whenever traffic-control signs are placed, erected or installed by competent authority indicating that vehicles of certain types or in excess of certain weights are prohibited on certain streets or portions of certain streets, no driver of a vehicle shall disobey the prohibitions of any such sign.  
(1970 Code, § 20-30)

#### **§ 70.051 DISPLAY OF UNAUTHORIZED DEVICES, SIGNS, AND THE LIKE; SUCH DEVICES DECLARED NUISANCE AND SUBJECT TO REMOVAL.**

(A) No person shall, without proper authority, place, maintain or display upon or in view of any street any traffic-control device or traffic-control signal, or any sign, signal, marking or device which purports to be or is an imitation of or resembles an official traffic-control device or railroad sign or

signal, or which attempts to direct the movement of traffic, or which hides from view or interferes with the effectiveness of any official traffic-control device or any railroad sign or signal, and no person shall place or maintain upon any street any traffic-control device bearing thereon any commercial advertising. This shall not be deemed to prohibit the erection upon private property adjacent to streets of signs giving useful directional information and of a type that cannot be mistaken for official signs.

(B) Every such prohibited device, signal, sign or marking is declared to be a public nuisance and the Chief of Police is empowered to remove it or cause it to be removed without notice.  
(1970 Code, § 20-31)

***Statutory reference:***

*For corresponding provisions of state motor vehicle law, see W.V. Code, § 17C-3-8*

**§ 70.052 INTERFERENCE WITH OFFICIAL TRAFFIC-CONTROL DEVICES OR RAILROAD SIGNS OR SIGNALS.**

No person shall without lawful authority attempt to or in fact alter, deface, injure, knock down or remove any official traffic-control device or any railroad sign or signal or any inscription, shield, or insignia thereon, or any other part thereof.  
(1970 Code, § 20-32)

***Statutory reference:***

*For corresponding provisions of state motor vehicle law, see W.V. Code, § 17C-3-9*

***VEHICLE REGISTRATION***

**§ 70.065 VEHICLES SUBJECT TO REGISTRATION.**

Every motor vehicle, trailer, semitrailer and pole trailer when driven or moved upon a highway shall be subject to the registration provisions of this title, except:

(A) Any such vehicle driven or moved upon a highway in conformance with the provisions of this title relating to manufacturers, transporters, dealers, lienholders or nonresidents, or under a temporary registration permit issued by the State Department of Motor Vehicles;

(B) Any implement of husbandry upon which is securely attached a machine for spraying fruit trees and plants of the owner or lessee or another implement of husbandry which is used exclusively for agricultural or horticultural purposes on lands owned or leased by the owner thereof and which is not operated on or over any public highway of this state for any other purpose other than for the purpose of taking it or other fixtures thereto attached to and from a repair shop for repairs, or for the purpose of operating it across a highway or along a highway other than an expressway as designated by the State Road Commissioner from one point of the owner's land to another part thereof, irrespective of whether or not the tracts adjoin; provided, that the distance between the points shall not exceed 15 miles. The foregoing exemption from registration and license requirements shall also apply to any vehicle hereinbefore described or to any farm trailer owned by the owner or lessee of the farm on which such trailer is used, when such trailer is used by the owner thereof for the purpose of moving farm produce and livestock from such farm along a public highway for a distance not to exceed 10 miles to a storage house or packing plant, when such use is a seasonal operation. The exemptions contained in this section shall also apply to farm machinery and tractors; provided, that such machinery and tractors may use the highways in going from one tract of land to another tract of land regardless of whether such land is owned by the same or different persons. Any vehicle exempted hereunder from the requirements for annual registration certificate and license plates and fees therefor shall not be permitted to use the highways as above provided between sunset and sunrise. Any vehicle used as an implement of husbandry exempt hereunder must have the words "farm use" affixed to both sides of the implement in 10 inch letters;

(C) Any vehicle which is propelled exclusively by electric power obtained from overhead trolley wires though not operated upon rails;

(D) Any vehicle of a type subject to registration owned by the government of the United States;

(E) Any wrecked or disabled vehicle which is being towed by a licensed wrecker or dealer on the public highways of this city.

(1970 Code, § 20-73.27)

#### **§ 70.066 TEMPORARY PERMITS.**

Temporary permits granted by the State Department of Motor Vehicles to operate a vehicle shall be valid in this city in accordance with the terms and duration of such permits.

(1970 Code, § 20-73.28)

#### **§ 70.067 REGISTRATION CARD USE AND EXHIBITION.**

Every owner, upon receipt of a registration card, shall write his signature thereon with pen and ink in the space provided. Every such registration card shall be carried by the person driving or in control of such vehicle, who shall display the same upon demand of a police officer.

(1970 Code, § 20-73.29)

#### **§ 70.068 DISPLAY OF REGISTRATION PLATES.**

(A) Registration plates issued for vehicles required to be registered hereunder shall be attached to the rear thereof.

(B) Every registration plate shall at all times be securely fastened in a horizontal position to the vehicle for which it is issued so as to prevent the plate from swinging and at a height of not less than 12 inches from the ground, measuring from the bottom of such

plate, in a place and position to be clearly visible, and shall be maintained free from foreign materials and in a condition to be clearly legible.  
(1970 Code, § 20-73.30)

**§ 70.069 OPERATION OF VEHICLES WITHOUT EVIDENCE OF REGISTRATION; USE OF TEMPORARY FACSIMILE.**

(A) No person shall operate, nor shall an owner knowingly permit to be operated, upon any highway any vehicle required to be registered hereunder unless there shall be attached thereto and displayed thereon, or shall be in the possession of the operator when and as required by this chapter, a valid registration plate issued therefor by the State Department of Motor Vehicles for the current registration year, except as otherwise expressly permitted in this chapter. Any violation of this section is a misdemeanor.

(B) In the event that the registration plate originally issued is lost, destroyed or stolen, a temporary facsimile of the plate, showing the number of the same, may be attached to the vehicle by the owner for a period of not more than 15 days or until a new plate is issued by the Department, whichever is earlier; provided, that no such facsimile shall be used and no such vehicle shall be driven upon the highways of this city, until the owner shall have notified in writing the State Department of Public Safety of the loss of such registration plate.  
(1970 Code, § 20-73.31) Penalty, see § 70.999

**§ 70.070 IMPROPER USE OF EVIDENCE OF REGISTRATION.**

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

issued for such vehicle or not otherwise lawfully used thereon under this chapter. Any violation of this section is a misdemeanor.

(1970 Code, § 20-73.32) Penalty, see § 70.999

**§ 70.071 NONRESIDENT VEHICLES PROHIBITED FROM OPERATING WITHOUT VALID REGISTRATION CARD AND PLATES.**

(A) A nonresident owner, except as otherwise provided in this section owning any vehicle registered in a foreign state or country of a type otherwise subject to registration hereunder may operate or permit the operation of such vehicle within this city for a period of 30 days without registering such vehicle in, or paying any fees to, this state subject to the condition that such vehicle at all times when operated in this city is duly registered in and displayed upon it a valid registration card and registration plate or plates issued for such vehicle in the place of residence of such owner.

(B) Every nonresident, including any foreign corporation, carrying on business within this city and owning and regularly operating in such business any motor vehicle, trailer, or semitrailer within this city shall be required to register each such vehicle and pay the same fee therefor as is required with reference to like vehicles owned by residents of this state, except as otherwise provided by reciprocal agreements with other states accomplished pursuant to W.V. Code, § 17A-2-10.

(C) Any nonresident who has or engages in temporary or recurrent or seasonal employment, business, profession or occupation in this state and by virtue thereof has complied with the special permit or plate provisions set forth in W.V. Code, § 17A-5-1(c) shall, upon proof of compliance therewith, be exempt from the provisions of this section.

(D) It is a misdemeanor for any person to drive or move or knowingly to permit to be moved or driven upon any highway any vehicle for which a special permit shall have been issued under this

section unless such vehicle shall bear the special plate called for by the certificate evidencing such special permit.  
(Ord. passed 5-3-1988) Penalty, see § 70.999

## **§ 70.072 VIOLATIONS.**

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 highway any vehicle of a type required to be registered hereunder which is not registered when and as required in accordance with and by the laws of this state, except as otherwise permitted by the provisions of this title; provided, that in the event of the sale of a vehicle by a person other than a registered dealer, the person purchasing the same may for a period of not more than 10 days, operate such vehicle under the registration thereof; provided, further, that he shall have and display on the demand of any proper officer the consent in writing of such previous owner so to use such registration.  
(1970 Code, § 20-73.33) Penalty, see § 70.999

## ***OPERATOR'S AND CHAUFFEUR'S LICENSE***

### **§ 70.085 WHO MUST BE LICENSED.**

(A) No person, except those hereinafter expressly excepted, shall drive any motor vehicle upon a street or highway in this city or upon any subdivision street or parking lot which is generally used by the public unless the person has a valid license as an operator or chauffeur under the provisions of the laws of this state.

(B) No person shall drive a motor vehicle as a chauffeur unless he holds a valid chauffeur's license.

(C) Any person holding a valid chauffeur's license need not procure an operator's license.  
(1970 Code, § 20-73.34)

**§ 70.086 LICENSE TO BE CARRIED AND EXHIBITED ON DEMAND.**

Every licensee shall have his operator's or chauffeur's license in his immediate possession at all times when operating a motor vehicle and shall display the same upon demand of the municipal judge or a police officer. However, no person charged with violating this section shall be convicted if he produces in court or the office of the arresting officer an operator's or chauffeur's license theretofore issued to him and valid at the time of his arrest.

(1970 Code, § 20-73.35)

**§ 70.087 EXEMPTED PERSONS NOT IN VIOLATION.**

No person exempted from the license requirements of this state shall be deemed in violation of the provisions of this subchapter.

(1970 Code, § 20-73.36)

**§ 70.088 UNLAWFUL USE OF LICENSE; LICENSE VIOLATIONS GENERALLY.**

It is a misdemeanor for any person to commit any one or more of the following acts:

(A) To display, cause or permit to be displayed or have in his possession any canceled, revoked, suspended, fictitious or fraudulently altered operator's or chauffeur's license;

(B) To lend his operator's or chauffeur's license to any other person or knowingly permit the use thereof by another;

(C) To display or represent as one's own an operator's or chauffeur's license not issued to him;

(D) To fail or refuse to surrender to the Department upon its lawful demand any operator's or chauffeur's license which has been suspended, revoked or canceled;



(E) To use a false or fictitious name in any application for an operator's or chauffeur's license or to knowingly make a false statement or to knowingly conceal a material fact or otherwise commit a fraud in any such application;

(F) To permit any unlawful use of an operator's or chauffeur's license issued to him; or

(G) To do any act forbidden or fail to perform any act required by this subchapter.  
(1970 Code, § 20-73.37) Penalty, see § 70.999

#### **§ 70.089 DRIVING WHILE LICENSE SUSPENDED OR REVOKED.**

Any person who drives a motor vehicle on any public highway of this city at a time when his privilege to do so has been lawfully suspended or revoked shall, for the first offense, be guilty of a misdemeanor, and upon conviction thereof, shall be punished by imprisonment in the county jail for a period of 48 hours and, in addition to such mandatory jail sentence, shall be fined not less than \$50 nor more than \$200; for the second offense, such person shall be guilty of a misdemeanor, and upon conviction thereof, shall be punished by imprisonment in the county jail for a period of 10 days and, in addition to such mandatory jail sentence, shall be fined not less than \$100 nor more than \$200; for the third or any subsequent offense, such person shall be guilty of a misdemeanor, and, upon conviction thereof, shall be punished by imprisonment in the county jail for a period of 30 days and, in addition to such mandatory jail sentence, shall be fined not less than \$150 nor more than \$200.  
(1970 Code, § 20-73.38)

#### **§ 70.090 PERMITTING UNAUTHORIZED PERSON TO DRIVE.**

No person shall authorize or knowingly permit a motor vehicle owned by him or under his control to be driven upon any highway by any person who is not

authorized hereunder or in violation of any of the provisions of this chapter.  
(1970 Code, § 20-73.39)

### ***ANTI-THEFT LAWS, TAMPERING WITH VEHICLES***

#### **§ 70.105 UNLAWFUL TAKING OF VEHICLE; JOY RIDING.**

Any person who drives a vehicle, not his own, without consent of the owner thereof, and with intent temporarily to deprive such owner of his possession of such vehicle without intent to steal the same, is guilty of a misdemeanor. The consent of the owner of a vehicle to its taking or driving shall not in any case be presumed or implied because of such owner's consent on a previous occasion to the taking or driving of such vehicle by the same or different person. Any person who assists in, or is a party or an accomplice in any such unauthorized taking or driving, is guilty of a misdemeanor.

(1970 Code, § 20-101.2) Penalty, see § 70.999

#### **§ 70.106 INJURING OR TAMPERING WITH VEHICLE.**

(A) Any person who either individually or in association with 1 or more persons willfully injures or tampers with any vehicle or breaks or removes any part of or from a vehicle without the consent of the owner is guilty of a misdemeanor.

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

(1970 Code, § 20-101.3) Penalty, see § 70.999

#### **§ 70.107 VEHICLES WITHOUT MANUFACTURERS' NUMBERS.**

Any person who knowingly buys, receives, disposes of, sells, offers for sale or has in his possession any motor vehicle, or engine removed from a motor vehicle, from which the manufacturer's serial or engine number or other distinguishing number or identification mark or number placed thereon under assignment from the Department has been removed, defaced, covered, altered or destroyed for the purpose of concealing or misrepresenting the identity of such motor vehicle or engine is guilty of a misdemeanor.

(1970 Code, § 20-101.4) Penalty, see § 70.999

#### **§ 70.108 ALTERING OR CHANGING ENGINE NUMBERS OR OTHER NUMBERS.**

(A) No person shall with fraudulent intent deface, destroy or alter the manufacturer's serial or engine number or other distinguishing number or identification mark of a motor vehicle, nor shall any person place or stamp any serial, engine or other number or mark upon a motor vehicle, except one assigned thereto by the Department. Any violation of this provision is a misdemeanor.

(B) This section shall not prohibit the restoration by an owner of an original serial, engine or other number or mark when such restoration is made under permit issued by the Department, nor prevent any manufacturer from placing in the ordinary course of business numbers or marks upon motor vehicles or parts thereof.

(1970 Code, § 20-101.5) Penalty, see § 70.999

**§ 70.998 VIOLATIONS.**

(A) *Notice or citation of violation.*

(1) *When to be issued; how served.* Except for cases wherein an arrest is made or only a warning

is justified, each person who violates any provision of this title shall be given a notice or citation of violation, which shall be served upon the driver of the vehicle which is the subject of the violation personally or, in the case of an unattended vehicle standing or parked in violation of this title, by placing a copy of such notice or citation within such vehicle or by affixing such copy to such vehicle, conspicuously, whether under its windshield wiper or otherwise.

(1970 Code, § 20-103)

(2) *Contents and signature, copies; form.*

(a) Each notice of violation shall specify the date and hour that the violation is alleged to have occurred; the nature of the alleged violation and the section of this code alleged to have been violated; the place at which the violation is alleged to have occurred; the vehicle registration number and the state of registration; the entire penalty for such violation, and the reduced fine, if such there be, for prompt payment thereof to the traffic desk officer at police headquarters within 24 hours from the date of the notice; and a brief warning that failure to appear before and pay to the traffic desk officer at police headquarters, within 5 days from the date of the notice, the entire fine prescribed for the alleged violation, will subject the offender to immediate arrest, unless the reduced fine, if any, shall have been paid as provided in this section, or unless subject shall have appeared before the Police Court Judge and demanded to stand trial. Each notice of violation shall be signed by the police officer or other authorized person by whom it is given.

(b) Notices of violation shall be written in triplicate, upon blank forms provided by the city. The original copies thereof shall be served as provided in subsection (1) above; one carbon copy shall be provided without delay to the traffic desk officer at police headquarters; and the other copy shall be retained by the issuing officer; provided, however, that each notice of violation of the provisions of § 70.999 need not be in triplicate and shall be sufficient if written in manner and form following:

Date \_\_\_\_\_ Time \_\_\_\_\_ A. M.  
P.M.

License \_\_\_\_\_ Year \_\_\_\_\_ State \_\_\_\_\_

Make \_\_\_\_\_

Officer \_\_\_\_\_

Street \_\_\_\_\_

Violation § 70.999 City Code

No. \_\_\_\_\_

(Tear off & retain at Headquarters)

(Vehicle Notice)

No. \_\_\_\_\_

Date \_\_\_\_\_ Time \_\_\_\_\_ A. M.  
P.M.

License \_\_\_\_\_ Year \_\_\_\_\_ State \_\_\_\_\_

Make \_\_\_\_\_

Officer \_\_\_\_\_

Street \_\_\_\_\_

Violation § 70.999 City Code

**SORRY, YOU HAVE OVERPARKED**

The charge for this meter violation is \$2.00 if paid within 24 hours.

If this ticket is not received within 24 hours, a charge of \$5.00 will be made.

Failure to pay, or otherwise appear within 5 days, will cause warrant to issued.

Parking space is Valuable. Be Courteous. Please Don't Violate.

**RAVENSWOOD POLICE DEPARTMENT**

Ravenswood, West Virginia

(1970 Code, § 20-104)

(B) *Violators failing to comply with notices are subject to arrest.* Any person who has been served with a notice or citation of violation in a manner

authorized in subsection (A)(1) and who then fails to do 1 of the following acts within the specified time shall thereupon be subject to immediate arrest:

(1) Appear before and pay to the traffic desk officer at police headquarters, within 5 days from the date of the notice, the entire fine for the alleged violation; or

(2) Appear before and pay to the traffic desk officer at police headquarters, within 24 hours from the date of the notice, the reduced fine, if any, for the alleged violation or mail to the Police Department; or

(3) Appear before the Police Court Judge, within 5 days from the date of the notice, and demand to stand trial for the alleged violation.

(1970 Code, § 20-105)

(Am. Ord. passed 12-7-1993)

#### **§ 70.999 PENALTY.**

(A) The following fines for each violation of the provisions of this title relating to overtime metered parking, except where otherwise specifically provided, shall be applicable from the effective date of the ordinance set forth in this title: \$2 if paid within 24 hours from issuance; and if not paid within 24 hours the fine is \$5.

(B) (1) The penalty for any violation not included above or specifically provided shall be as provided by §10.99.

(1970 Code, § 20-102) (Am. Ord. passed 9-18-1984)

(2) Any person convicted of failing to make a report as required in §§ 71.095 *et seq.* shall be punished as provided in § 10.99.

(1970 Code, § 20-73.10)



## CHAPTER 71: TRAFFIC REGULATIONS

### Section

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***Statutory reference:***

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*Negligent homicide, driving while intoxicated and reckless driving, see W.V. Code, §§ 17C-5-1 et seq.*

## **GENERAL REGULATIONS**

### **§ 71.001 LIMITATIONS ON BACKING.**

The operator of a vehicle shall not drive it in reverse gear unless such movement can be made with reasonable safety and without interfering with other traffic.  
 (1970 Code, § 20-67) Penalty, see § 70.999

***Statutory reference:***

*Corresponding provision of state motor vehicle law, see W.V. Code, § 17C-14-2*

### **§ 71.002 OBSTRUCTION TO DRIVER'S VIEW OR DRIVING MECHANISM.**

(A) No person shall drive a vehicle when it is so loaded as to obstruct the view of the driver to the front or sides of the vehicle or as to interfere with the driver's control over the driving mechanism of the vehicle.

(B) No passenger in a vehicle shall ride in such position as to interfere with the driver's view ahead or to the sides or to interfere with his control over the driving mechanism of the vehicle.  
 (1970 Code, § 20-68) Penalty, see § 70.999

***Statutory reference:***

*Corresponding provisions of state motor vehicle law, see W.V. Code, § 17C-14-4*

### **§ 71.003 PASSENGERS IN SEAT WITH OPERATOR.**

No more than 3 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 it is being operated on the streets of this city; provided, that the limitation of this section shall not apply to a truck cab or truck crew compartment properly designed for the occupancy of 4 persons including the operator and so designated on the registration card by the Department of Motor Vehicles of the state of registration.

(1970 Code, § 20-69) Penalty, see § 70.999

***Statutory reference:***

*Corresponding provisions of state motor vehicle law, see W.V. Code, § 17C-14-5*

### **§ 71.004 RIDING OUTSIDE OF VEHICLE PROHIBITED.**

It shall be unlawful for any person to ride on the outside of any motor vehicle, such as the bumpers, radiator, fenders, running board, extra tire, tire carrier, or any other exposed part of the outside of such vehicle.

(1970 Code, § 20-70) Penalty, see § 70.999

### **§ 71.005 COASTING PROHIBITED.**

(A) The driver of any motor vehicle when traveling upon a downgrade shall not coast with the gears of such vehicle in neutral.

(B) The driver of a commercial motor vehicle when traveling upon a downgrade shall not coast with the clutch disengaged.

(1970 Code, § 20-71) Penalty, see § 70.999

***Statutory reference:***

*Corresponding provisions of state motor vehicle law, see W.V. Code, § 17C-14-8*

### **§ 71.006 DRIVING OVER FIRE HOSE.**

No person shall drive any vehicle over any unprotected fire hose except upon consent of the Fire Department officer in charge thereof, and then only with due caution.

(1970 Code, § 20-72) Penalty, see § 70.999

***Statutory reference:***

*Corresponding provisions of state motor vehicle law, see W.V. Code, § 17C-14-10*

### **§ 71.007 RIDING ON MOTORCYCLES.**

A person operating a motorcycle shall ride only upon the permanent and regular seat attached thereto, and such operator shall not carry any other person nor shall any other person ride on a motorcycle unless such motorcycle is designed to carry more than 1 person, in which event a passenger may ride upon the permanent and regular seat if designed for 2 persons, or upon another seat firmly attached to the rear or side of the operator.

(1970 Code, § 20-73) Penalty, see § 70.999

***Statutory reference:***

*Corresponding provisions of state motor vehicle  
law, see W.V. Code, § 17C-15-44(d)*

#### **§ 71.008 CHILD PASSENGER SAFETY DEVICES.**

(A) Every driver who transports a child under the age of 10 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 or highway of or in this city, 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 3 and 8, both inclusive, a vehicle seat belt shall be sufficient to meet the requirements of this section.

(B) Any person who violates any provision of this section is guilty of a misdemeanor, and, upon conviction thereof, shall be fined not less than \$10 nor more than \$20.

(C) A violation of this section shall not be deemed by virtue of such violation to constitute evidence of negligence or contributory negligence or comparative negligence in any civil action or proceeding for damages. If any provision of this section or the application thereof to any person or circumstance is held invalid, such invalidity shall not affect other provisions or applications of this section, and to this end the subsections of this section are declared to be severable.

(D) If all seat belts in a vehicle are being used at the time of examination by a law officer and the vehicle contains safety devices are installed in compliance with federal motor vehicle standards, the driver shall not be considered as violating this section.

(Ord. passed 12-2-1986) Penalty, see § 70.999

#### **§ 71.009 SECURITY.**

(A) No person shall knowingly drive or operate upon any road or highway in this city any motor vehicle upon which security is required by the provisions of W.V. Code, Art. 17D-2A, as amended, unless such security is in effect.

(B) Any violation of this section shall constitute a misdemeanor and, upon conviction thereof, shall be punishable by a fine of not less than \$200 nor more than \$500 or imprisoned in the county jail not more than 30 days, or both such fine and imprisonment.  
(Ord. passed 9-18-1984) Penalty, see § 70.999

## ***SPEED REGULATIONS***

### **§ 71.020 SPEED LIMITATIONS GENERALLY.**

(A) No person shall drive a vehicle on a highway 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 highways in compliance with legal requirements and the duty of all persons to use due care.

(B) Where no special hazard exists that requires lower speed for compliance with division (A) of this section, the speed of any vehicle not in excess of the limits specified in this section or established as hereinafter provided shall be lawful, but any speed in excess of the limits specified in this section or established as hereinafter provided shall be unlawful:

(1) Fifteen miles per hour when passing a school building or school grounds abutting on a road, street or 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 traveling 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;

(3) Fifty-five miles per hour on open country highways, except as otherwise provided by this chapter.

(C) The speeds set forth in this section shall not be applicable in speed limit zones posted with traffic-control signs placed pursuant to the provisions of § 70.045, and in such zones the speed limits specified in such signs shall be applicable.

(D) The driver of every vehicle shall, consistent with the requirements of division (A), 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.

(1970 Code, § 20-33) Penalty, see § 70.999

#### ***Statutory reference:***

*Corresponding provisions of state motor vehicle law, see W.V. Code, § 17C-6-1et seq*

*State law definitions of business district and residence district, respectively, see W.V. Code, §§ 17C-1-45 and 17C-146*

### **§ 71.021 MINIMUM SPEED.**

No person shall drive a motor vehicle at such slow speed as to impede the normal and reasonable movement of traffic except when such slow speed is necessary for safe operation or in compliance with law.

(1970 Code, § 20-34) Penalty, see § 70.999

#### ***Statutory reference:***

*Corresponding provisions of state motor vehicle*

*law, see W.V. Code, § 17C-6-3a(a)*

**§ 71.022 SPECIAL SPEED LIMITATIONS ON NONPASSENGER VEHICLES.**

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

- (1) Twenty miles per hour in any business district;

(2) Twenty-five miles per hour in any residence district;

(3) Trucks licensed at 8,000 pounds gross vehicle weight or less shall be permitted the same speed as passenger cars.

(B) No person shall drive any vehicle equipped with other than pneumatic tires at a speed greater than a maximum of 10 miles per hour.

(1970 Code, § 20-35) Penalty, see § 70.999

***Statutory reference:***

*Corresponding provisions of state motor vehicle law, see W.V. Code, §§ 17C-6-4 and 17C-6-5*  
*State law definition of "business district," see W.V. Code, § 17C-1-45*

***DRIVING ON RIGHT, OVERTAKING AND  
PASSING, STOPPING AND THE LIKE***

**§ 71.035 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 a roadway is closed to traffic while under construction or repair;

(3) Upon a roadway divided into 3 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.

(1970 Code, § 20-36) Penalty, see § 70.999

***Statutory reference:***

*Corresponding provisions of state motor vehicle law, see W.V. Code, § 17C-7-1*

**§ 71.036 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 1 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.

(1970 Code, § 20-37) Penalty, see § 70.999

***Statutory reference:***

*Corresponding provisions of state motor vehicle law, see W.V. Code, § 17C-7-2*

**§ 71.037 OVERTAKING AND PASSING VEHICLE PROCEEDING IN SAME DIRECTION.**

(A) *Passing on the left generally.* The following rules shall govern the overtaking and passing of vehicles proceeding in the same direction, subject to these limitations, exceptions, and special rules hereinafter stated:

(1) The driver of a vehicle overtaking another vehicle proceeding in the same direction shall give an audible signal and pass to the left thereof at a safe distance and shall not again drive to the right side of the roadway until safely clear of the overtaken vehicle;

(2) Except when overtaking and passing on the right is permitted, the driver of an overtaken vehicle shall give way to the right in favor of the overtaking vehicle on audible signal and shall not



increase the speed of his vehicle until completely passed by the overtaking vehicle.  
(1970 Code, § 20-38)

(B) *When overtaking on right is permitted.*

(1) The driver of a vehicle may overtake and pass upon the right of another vehicle only under the following conditions:

(a) When the vehicle overtaken is making or about to make a left turn;

(b) Upon a street or highway with unobstructed pavement not occupied by parked vehicles of sufficient width for 2 or more lines of moving vehicles in each direction;

(c) Upon a one-way street, or upon any roadway on which traffic is restricted to 1 direction of movement, where the roadway is free from obstructions and of sufficient width for 2 or more lines of moving vehicles.

(2) 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.

(1970 Code, § 20-39)

(C) *Limitations on overtaking on the left.* No vehicle shall be driven to the left side of the center of the roadway in overtaking and passing another vehicle proceeding in the same direction unless such left side is clearly visible and is free of oncoming traffic for a sufficient distance ahead to permit such overtaking and passing to be completely made without interfering with the safe operation of any vehicle approaching from the opposite direction or any vehicle overtaken. In every event the overtaking vehicle must return to the right-hand side of the roadway before coming within 100 feet of any vehicle approaching from the opposite direction.

(1970 Code, § 20-40)

(D) *Further limitations on driving to left of center of roadway.*

(1) No vehicle shall at any time be driven to the left side of the roadway under the following conditions:

(a) 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;

(b) When approaching within 100 feet of or traversing any intersection or railroad grade crossing;

(c) When the view is obstructed upon approaching within 100 feet of any bridge, viaduct, or tunnel.

(2) The foregoing limitations shall not apply upon a one-way roadway.  
(1970 Code, § 20-41) Penalty, see § 70.999

***Statutory reference:***

*Corresponding provisions of state motor vehicle law, see W.V. Code, §§ 17C-7-3, 17C-7-4, 17C-7-5, 17C-7-6*

**§ 71.038 PASSING STOPPED SCHOOL BUS.**

(A) The driver of a vehicle on any highway, upon meeting or overtaking from either direction any school bus which has stopped on the highway for the purpose of receiving or discharging any school children, shall stop the vehicle before reaching such school bus when it is displaying visual warning signals, and he 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.

(B) The driver of a vehicle upon a highway with separate roadways need not stop upon meeting or passing a school bus which is on a different roadway or when upon a controlled-access highway and the

school bus is stopped in a loading zone which is a part of or adjacent to such highway and where pedestrians are not permitted to cross the roadway.

(1970 Code, § 20-42) Penalty, see § 70.999

***Statutory reference:***

*Corresponding provisions of state motor vehicle  
law and required markings on school busses,  
see W.V. Code, § 17C-12-7*

**§ 71.039 DRIVING ON ROADWAYS LANED FOR TRAFFIC.**

Whenever any roadway has been divided into 2 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 as nearly as practicable entirely within a single lane and shall not be moved from such lane until the driver has first ascertained that such movement can be made with safety.

(B) Upon a roadway which is divided into 3 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) Where official signs or markings are in place indicating the purpose of any lane, drivers of vehicles shall use such lane only for the purposes indicated, or shall refrain from uses prohibited.

(1970 Code, § 20-43) Penalty, see § 70.999

***Statutory reference:***

*Corresponding provisions of state motor vehicle  
law, see W.V. Code, § 17C-7-9*

**§ 71.040 FOLLOWING TOO CLOSELY.**

*(A) Generally.*

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

(2) It shall be unlawful for the operator of any motor truck, registered for a gross weight of more than 8,000 pounds, bus, special mobile equipment or any motor vehicle drawing another vehicle operating upon any roadway outside of a business or residence district, to follow within 200 feet of another motor truck, bus, special mobile equipment or any motor vehicle drawing another vehicle; provided, that this provision shall not be construed to:

(a) Prevent overtaking and passing;

(b) Apply upon any lane specially designated for the use of motor trucks or combinations of vehicles or within any section of a roadway posted or marked as a "no passing zone;"

(c) Apply to any convoy of vehicles of the military service of the United States or of this state;

(d) Apply to funeral processions.

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

(a) Funeral processions; or

(b) Any convoy of vehicles of the military service of the United States or of this state.

(1970 Code, § 20-44)

(B) *Following or racing with Fire Department vehicles.* No unauthorized person shall race with, trail or follow within 300 feet any apparatus belonging to the Fire Department when actively responding to a fire alarm. (1970 Code, § 20-45) Penalty, see § 70.999

**Statutory reference:**

*Corresponding provisions of state motor vehicle law, see W.V. Code, § 17C-7-10*

*State law as to following fire apparatus, see W.V. Code, § 17C-14-9*

*State law definitions of business district and residence district, respectively, see W.V. Code, §§ 17C-1-45 and 17C-1-46*

**§ 71.041 DUTY OF DRIVER APPROACHING STOP SIGN.**

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

(1970 Code, § 20-46) Penalty, see § 70.999

**Statutory reference:**

*Corresponding provisions of state motor vehicle law, see W.V. Code, § 17C-12-5(d)*

**§ 71.042 STOPPING TO RECEIVE OR DISCHARGE PASSENGERS, PACKAGES OR OTHER CARGO.**

It shall be unlawful for any person operating a vehicle to take on or discharge from such vehicle any passenger, package or other cargo except when such motor vehicle be brought to a stop at the curb on the right-hand side of the street; provided, that on a one-way street such vehicle may be stopped at the left-hand curb.

(1970 Code, § 20-47) Penalty, see § 70.999

**§ 71.043 STOPPING BEFORE EMERGING FROM ALLEY OR PRIVATE DRIVEWAY.**

The driver of a vehicle 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 thereon.

(1970 Code, § 20-48) Penalty, see § 70.999

**Statutory reference:**

*Corresponding provisions of state motor vehicle law, see W.V. Code, § 17C-12-6*

**§ 71.044 RAILROAD GRADE CROSSINGS.**

(A) *Obedience of vehicle driver on signal indicating approach of train.*

(1) Whenever any person driving a vehicle approaches a railroad grade crossing under any of the circumstances stated in this section, the driver of such vehicle shall stop within 50 feet but not less than 15 feet from the nearest rail of such railroad and shall not proceed until he can do so safely. The foregoing requirements shall apply when:

- (a) A clearly visible electric or mechanical signal device gives warning of the immediate approach of a railroad train;
- (b) A crossing gate is lowered or when a human flagman gives or continues to give a signal of the approach or passage of a railroad train;
- (c) A railroad train approaching within approximately 1,500 feet of the highway crossing emits a signal audible from such distance and such railroad train, by reason of its speed or nearness to such crossing, is an immediate hazard;
- (d) Any approaching railroad train is plainly visible and is in hazardous proximity to such crossing.

(2) No person shall drive any vehicle through, around, or under any crossing gate or barrier at a railroad crossing while such gate or barrier is closed or is being opened or closed.  
(1970 Code, § 20-49)

(B) *Certain vehicles must stop at all crossings.*

(1) The driver of any vehicle carrying passengers for hire, or of any school bus carrying any school child, or of any vehicle carrying explosive substances or flammable liquids as a cargo or part of a cargo, or of any vehicle owned by an employer which, in carrying on such employer's business or in carrying employees to and from work, is carrying more than 6 employees of such employer, before crossing at grade any track of a railroad, shall stop such vehicle within 50 feet but not less than 15 feet from the nearest rail of such railroad and while so stopped shall listen and look in both directions along such track for any approaching train, and for signals indicating the approach of a train, except as hereinafter provided, and shall not proceed until he can do so safely. After stopping as required herein and upon proceeding when it is safe to do so the driver of such vehicle shall cross only in such gear of the vehicle that there will be no necessity for changing gears while traversing such crossing and the driver shall not shift gears while crossing any track.

(2) No stop need be made at any such crossing where a police officer or a traffic-control signal directs traffic to proceed.

(1970 Code, § 20-50) Penalty, see § 70.999

***Statutory reference:***

*Corresponding provisions of state motor vehicle law, see W.V. Code, §§ 17C-12-1 and 17C-12-3*

**TURNING AND STARTING; SIGNALS ON  
STOPPING AND TURNING**

**§ 71.055 REQUIRED POSITION AND METHOD OF TURNING AT INTERSECTIONS.**

The driver of a vehicle intending to turn at an intersection shall do so as provided in this subchapter.  
(1970 Code, § 20-51) Penalty, see § 70.999

**§ 71.056 RIGHT TURNS.**

Both the approach for a right turn and a right turn shall be made as close as practicable to the right-hand curb or edge of the roadway.  
(1970 Code, § 20-52) Penalty, see § 70.999

***Statutory reference:***

*Corresponding provisions of state motor vehicle  
law, see W.V. Code, § 17C-8-2*

**§ 71.057 LEFT TURNS.**

(A) *On two-way roadways.* 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 center line thereof and by passing to the right of such center line where it enters the intersection and after entering the intersection the left turn shall be made so as to leave the intersection to the right of the center line of the roadway being entered. Whenever practicable the left turn shall be made in that portion of the intersection to the left of the center of the intersection.  
(1970 Code, § 20-53)

(B) *Other than two-way roadways.* At any intersection where traffic is restricted to 1 direction on 1 or more of the roadways, the driver of a vehicle intending to turn left at any such intersection shall approach the intersection in the extreme left-hand lane lawfully available to traffic moving in the direction of travel of such vehicle and after entering the



intersection the left turn shall be made so as to leave the intersection, as nearly as practicable, in the left-hand lane lawfully available to traffic moving in such direction upon the roadway being entered.  
(1970 Code, § 20-54) Penalty, see § 70.999

***Statutory reference:***

*Corresponding provisions of state motor vehicle law, see W.V. Code, §§ 17C-8-3 and 17C-8-4*

**§ 71.058 COMMON COUNCIL MAY SPECIFY DIFFERENT COURSE FOR TURNS.**

The Common Council may cause markers, buttons, or signs to be placed within or adjacent to intersections and thereby require and direct that a different course from that specified in this subchapter be traveled by vehicles turning at an intersection, and when markers, buttons or signs are so placed no driver of a vehicle shall turn a vehicle at an intersection other than as directed and required by such markers, buttons, or signs.  
(1970 Code, § 20-55) Penalty, see § 70.999

***Statutory reference:***

*Corresponding provisions of state motor vehicle law, see W.V. Code, § 17C-8-5*

**§ 71.059 TURNING ON CURVE OR CREST OF GRADE PROHIBITED.**

No vehicle shall be turned so as to proceed in the opposite direction upon any curve, or upon the approach to, or near the crest of a grade, where such vehicle cannot be seen by the driver of any other vehicle approaching from either direction within 500 feet.  
(1970 Code, § 20-56) Penalty, see § 70.999

***Statutory reference:***

*Corresponding provisions of state motor vehicle law, see W.V. Code, § 17C-8-6*

## **§ 71.060 STARTING PARKED VEHICLE.**

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

(1970 Code, § 20-57) Penalty, see § 70.999

### ***Statutory reference:***

*Corresponding provisions of state motor vehicle law, see W.V. Code, § 17C-8-7*

## **§ 71.061 TURNING MOVEMENTS AND REQUIRED SIGNALS.**

(A) No person shall turn a vehicle at an intersection unless the vehicle is in proper position upon the roadway as required in §§ 71.056 through 71.058, or turn a vehicle to enter a private road or driveway or otherwise turn a vehicle from a direct course or move right or left upon a roadway unless and until such movement can be made with reasonable safety. No person shall so turn any vehicle without giving an appropriate signal in the manner hereinafter provided in the event any other traffic may be affected by such movement.

(B) A signal of intention to turn right or left when required shall be given continuously during not less than the last 100 feet traveled by the vehicle before turning.

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

(1970 Code, § 20-58) Penalty, see § 70.999

### ***Statutory reference:***

*Corresponding provisions of state motor vehicle law, see W.V. Code, § 17C-8-8*

## **§ 71.062 SIGNALS TO BE GIVEN BY HAND AND ARM OR SIGNAL DEVICE.**

Any stop or turn signal when required herein shall be given either by means of the hand and arm or

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

(1970 Code, § 20-59) Penalty, see § 70.999

***Statutory reference:***

*Corresponding provisions of state motor vehicle law, see W.V. Code, § 17C-8-9*

**§ 71.063 METHOD OF GIVING HAND AND ARM SIGNALS.**

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

(A) *Left turn.* Hand and arm extended horizontally.

(B) *Right turn.* Hand and arm extended upward.

(C) *Stop or decrease speed.* Hand and arm extended downward.

(1970 Code, § 20-60) Penalty, see § 70.999

***Statutory reference:***

*Corresponding provisions of state motor vehicle law, see W.V. Code, § 17C-8-10*

***RIGHT-OF-WAY***

**§ 71.075 VEHICLE APPROACHING OR ENTERING INTERSECTION.**

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

(B) When 2 vehicles enter an intersection from a different highway at approximately the same time the driver of the vehicle on the left shall yield the right-of-way to the vehicle on the right.

(C) The right-of-way rules declared in divisions (A) and (B) of this section are modified at through highways and elsewhere as hereinafter stated in this subchapter.

(1970 Code, § 20-61) Penalty, see § 70.999

***Statutory reference:***

*Corresponding provisions of state motor vehicle law, see W.V. Code, § 17C-9-1*

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

(1970 Code, § 20-62) Penalty, see § 70.999

***Statutory reference:***

*Corresponding provisions of state motor vehicle law, see W.V. Code, § 17C-9-2*

**§ 71.077 VEHICLE ENTERING THROUGH HIGHWAY OR STOP INTERSECTION.**

(A) The driver of a vehicle shall stop as required by a traffic-control stop sign at the entrance to a through highway and shall yield the right-of-way to other vehicles which have entered the intersection from through highways or which are approaching so closely on through highways as to constitute an immediate hazard, but such driver having so yielded may proceed.

(B) The driver of a vehicle shall likewise stop in obedience to a stop sign as required herein at an intersection where a stop sign is erected at 1 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.

(1970 Code, § 20-63) Penalty, see § 70.999

***Statutory reference:***

*Corresponding provisions of state motor vehicle law, see W.V. Code, § 17C-9-3*

**§ 71.078 VEHICLE ENTERING HIGHWAY FROM PRIVATE ROAD OR DRIVEWAY.**

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

(1970 Code, § 20-64) Penalty, see § 70.999

***Statutory reference:***

*Corresponding provisions of state motor vehicle law, see W.V. Code, § 17C-9-4*

**§ 71.079 OPERATION OF VEHICLES ON APPROACH OF AUTHORIZED EMERGENCY VEHICLES.**

(A) Upon the immediate approach of an authorized emergency vehicle, with at least 1 lighted lamp exhibiting red light visible under normal atmospheric conditions from a distance of 500 feet to the front of such vehicle other than a vehicle belonging to a member of the Fire Department or a police vehicle when operated as an authorized emergency vehicle, and when the driver is giving audible signal by siren, exhaust whistle, or bell, 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 (or the nearest curb of a one-way street) of the roadway clear of any intersection and shall stop and remain in such position until the authorized emergency vehicle has passed, except when otherwise directed by a police officer.

(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.

(1970 Code, § 20-65) Penalty, see § 70.999

***Statutory reference:***

*Corresponding provisions of state motor vehicle law, see W.V. Code, § 17C-9-5*

**§ 71.080 PERSONAL CARS IDENTIFIED AS BELONGING TO MEMBERS OF FIRE DEPARTMENT.**

Personal vehicles belonging to members of the Fire Department, when such cars are not equipped with signaling devices required for authorized emergency vehicles but which can be identified as provided in § 71.020, and when driven in response to a fire alarm, shall have right-of-way over all other traffic.

(1970 Code, § 20-66) Penalty, see § 70.999

***ACCIDENTS***

**§ 71.095 ACCIDENTS INVOLVING DEATH OR PERSONAL INJURIES.**

The driver of any vehicle involved in an accident resulting in injury to or death of any person shall immediately stop such vehicle at the scene of such accident or as close thereto as possible, but shall then forthwith return to and in every event shall remain at the scene of the accident until he has fulfilled the requirements of § 71.097. Every such stop shall be made without obstructing traffic more than is necessary. (1970 Code, § 20-73.1) Penalty, see § 70.999

**§ 71.096 ACCIDENTS INVOLVING DAMAGE TO VEHICLE.**

The driver of any vehicle involved in an accident resulting only in damage to a vehicle which is driven

or attended by any person shall immediately stop such vehicle at the scene of such accident or as close thereto as possible and shall forthwith return to and in every event shall remain at the scene of such accident until he has fulfilled the requirements of § 71.097. Every such stop shall be made without obstructing traffic more than is necessary.

(1970 Code, § 20-73.2) Penalty, see § 70.999

#### **§ 71.097 DUTY TO GIVE INFORMATION AND RENDER AID.**

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

(1970 Code, § 20-73.3) Penalty, see § 70.999

#### **§ 71.098 DUTY UPON STRIKING UNATTENDED VEHICLE.**

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

(1970 Code, § 20-73.4) Penalty, see § 70.999

**§ 71.099 DUTY UPON STRIKING FIXTURES UPON A HIGHWAY.**

The driver of any vehicle involved in an accident resulting only in damage to fixtures or other property legally upon or adjacent to a highway shall take reasonable steps to locate and notify the owner or person in charge of such property of such fact, giving his name and address and the registration number of the vehicle he is driving and shall, upon request and if available, exhibit his operator's or chauffeur's license and shall make a report of such accident when and as required in § 71.101.

(1970 Code, § 20-73.5) Penalty, see § 70.999

**§ 71.100 IMMEDIATE REPORTS OF ACCIDENTS.**

The driver of a vehicle involved in an accident resulting in injury to or death of any person shall immediately by the quickest means of communication, whether oral or written, give notice of such accident to the Police Department.

(1970 Code, § 20-73.6)

**§ 71.101 WRITTEN REPORTS OF ACCIDENTS.**

(A) The driver, or the attorney or agent of such driver, of a vehicle involved in an accident occurring on the public highways of this city resulting in bodily injury to or death of any person or total property damage to an apparent extent of \$100 or more shall, within 5 days after such accident, forward a written report of such accident to the State Department of Motor Vehicles.

(B) Every law enforcement officer who, in the regular course of duty, investigates a motor vehicle accident of which a report must be made as required in this section, either at the time of and at the scene of the accident or thereafter by interviewing participants or witnesses shall, within 24 hours after completing such investigation, forward a written report of such accident to the Department.

(1970 Code, § 20-73.7) Penalty, see § 70.999

**§ 71.102 WHEN DRIVER UNABLE TO REPORT.**

(A) Whenever the driver of a vehicle is physically incapable of making an immediate report of an accident as required in § 71.100 and there is another occupant in the vehicle at the time of the accident capable of making a report, such occupant shall make or cause to be made such report not made by the driver.

(B) Whenever the driver is physically incapable of making a written report of an accident as required in § 71.101 and such driver is not the owner of the vehicle, then the owner of the vehicle involved in such accident shall within 5 days after learning of the accident make such report not made by the driver.

(1970 Code, § 20-73.8) Penalty, see § 70.999

**§ 71.103 ACCIDENT REPORT FORMS.**

The city shall use the form prescribed and furnished by the State Department of Motor Vehicles.

(1970 Code, § 20-73.9)

***STATE INSPECTION STICKER***

**§ 71.115 VEHICLE NOT TO BE OPERATED WITHOUT REQUIRED EQUIPMENT OR IN UNSAFE CONDITION.**



No person shall drive or move on any highway any motor vehicle, trailer, semitrailer or pole trailer, or any combination thereof, unless the equipment upon any and every such vehicle is in good working order and adjustment as required by this chapter and such vehicle is in such safe mechanical condition as not to endanger the driver or other occupant or any person upon any highway.  
(1970 Code, § 20-73.11) Penalty, see § 70.999

**§ 71.116 INSPECTION BY DEPARTMENT OF PUBLIC SAFETY.**

(A) The Police Department may at any time, upon reasonable cause to believe that a vehicle is unsafe or not equipped as required by law, or that its equipment is not in proper adjustment or repair, require the driver of such vehicle to stop and submit such vehicle to an inspection and such test with reference thereto as may be appropriate.

(B) In the event such vehicle is found to be in unsafe condition or any required part or equipment is not present or is not in proper repair and adjustment, the officer shall give a written notice to the driver and shall send a copy to the State Department of Motor Vehicles. Such notice shall require that such vehicle be placed in safe condition and its equipment in proper repair and adjustment, specifying the particulars with reference thereto, and that a state certificate of inspection and approval be obtained within 5 days.  
(1970 Code, § 20-73.12)

**§ 71.117 OWNERS AND DRIVERS TO COMPLY WITH INSPECTION LAWS.**

(A) No person driving a vehicle shall refuse to submit such vehicle to an inspection and test when required to do so by the Police Department.

(B) Every owner or driver, upon receiving a notice as provided in § 71.116, shall comply therewith and shall within 5 days secure an official certificate of inspection and approval which shall be issued in duplicate, 1 copy to be retained by the owner or driver and the other copy to be forwarded to the State Department of Motor Vehicles. Unless this subsection is complied with, the vehicle shall not be operated, except as provided in the next succeeding subsection.

(C) No person shall operate any vehicle after receiving a notice with reference thereto as above provided, except as may be necessary to return such vehicle to the residence or place of business of the owner or driver, if within a distance of 20 miles, or to a garage, until such vehicle and its equipment has

been placed in proper repair and adjustment and otherwise made to conform to the requirements of this chapter, and a certificate of inspection and approval shall be obtained as promptly as possible thereafter.

(D) In the event repair or adjustment of any vehicle or its equipment is found necessary upon inspection, the owner of such vehicle may obtain such repair or adjustment at any place he may choose, but in every event an official certificate of inspection and approval must be obtained; otherwise such vehicle shall not be operated upon the highways of this city.

(1970 Code, § 20-73.13) Penalty, see § 70.999

#### **§ 71.118 OFFICIAL INSPECTION CERTIFICATE ADOPTED.**

The official certificate of inspection of motor vehicles prescribed by the state and all rules and regulations applicable thereto and contained in W.V. Code, Chapter 17 are adopted and recognized by the city.

(1970 Code, § 20-73.14)

#### **§ 71.119 FALSE CERTIFICATES.**

(A) No person shall make, issue or knowingly use any imitation or counterfeit of an official certificate of inspection.

(B) No person shall display or cause or permit to be displayed upon a vehicle any certificate of inspection and approval knowing the same to be fictitious or issued for another vehicle or issued without an inspection having been made.

(1970 Code, § 20-73.15) Penalty, see § 70.999

#### **§ 71.120 OPERATION WITHOUT CERTIFICATE OR FAILURE TO PRODUCE CERTIFICATE; PENALTY.**

(A) It is a misdemeanor for any owner or operator, or both owner and operator, of any vehicle required to be inspected under this subchapter, to

operate or permit to be operated such vehicle without having displayed thereon a current and valid certificate of inspection and approval, or to fail to produce such upon demand of any authorized person as designated under this subchapter.

(B) Every person convicted of a misdemeanor for operating a vehicle without having displayed thereon a current and valid certificate of inspection and approval, or for failure to produce such certificate upon demand of an authorized person, shall be punished by a fine of not more than \$100.  
(1970 Code, § 20-73.16) Penalty, see § 70.999

**CHAPTER 72: DRIVING WHILE  
INTOXICATED AND RECKLESS DRIVING**

Section

***General Provisions***

- 72.01 Persons driving under influence of intoxicating liquor or drugs
- 72.02 Definition; phrases synonymous with driving under the influence of alcohol
- 72.03 Reckless driving

***Chemical Test for Intoxication***

- 72.20 Implied consent to test; administration at direction of law enforcement officer; designation of type of test
- 72.21 Preliminary analysis of breath to determine alcoholic content of blood
- 72.22 How blood test administered; additional test at option of person tested; use of test results; certain immunity from liability incident to administering test
- 72.23 Interpretation and use of chemical test
- 72.24 Right to demand test

***GENERAL PROVISIONS***

**§ 72.01 PERSONS DRIVING UNDER  
INFLUENCE OF INTOXICATING LIQUOR OR  
DRUGS.**

(A) Any person who:

(1) Drives a vehicle in the city 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 ten 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 county jail for not less than 1 day nor more than 30 days, which jail term shall include actual confinement of not less than 24 hours, and shall be fined not less than \$100 nor more than \$500.

(B) Any person who, being an habitual user of narcotic drugs or amphetamine or any derivative thereof, drives a vehicle in this city shall be guilty of a misdemeanor, and, upon conviction thereof, shall be imprisoned in the county jail for not less than 1 day nor more than 30 days, which jail term shall include actual confinement of not less than 24 hours, and shall be fined not less than \$100 nor more than \$500.

(C) Any person who:

(1) Knowingly permits his vehicle to be driven in this city 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;

(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 ten 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 county jail for not more than 30 days and shall be fined not less than \$100 nor more than \$500.

(D) Any person who knowingly permits his vehicle to be driven in this city by any other person who is an 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 county jail for not more than 30 days and shall be fined not less than \$100 nor more than \$500.

(E) The fact that any person charged with a violation of division (A), (B), (C) or (D) of this section is or has been legally entitled to use alcohol, a controlled substance or a drug shall not constitute a defense against any charge of violating division (A), (B), (C) or (D) of this section.

(F) For purposes of this section, the term **CONTROLLED SUBSTANCE** shall have the meaning ascribed to it in W.V. Code, § 60A-1-101.  
(1970 Code, § 20-73.17) (Am. Ord. passed 5-17-1994)

**§ 72.02 DEFINITION; PHRASES SYNONYMOUS WITH DRIVING UNDER THE INFLUENCE OF ALCOHOL.**

(A) For purposes of this chapter, the phrase **IN THIS CITY** shall mean anywhere within the physical

boundaries of this city, including, but not limited to, publicly maintained streets and highways, and subdivision streets or other areas not publicly maintained but nonetheless open to the use of the public for purposes of vehicular travel.

(B) When used in this code, the terms or phrases ***DRIVING UNDER THE INFLUENCE OF INTOXICATING LIQUOR, DRIVING OR OPERATING A MOTOR VEHICLE WHILE INTOXICATED, FOR ANY PERSON WHO IS UNDER THE INFLUENCE OF INTOXICATING LIQUOR TO DRIVE ANY VEHICLE***, or any similar term or phrase shall be construed to mean and be synonymous with the term or phrase ***WHILE UNDER THE INFLUENCE OF ALCOHOL...DRIVES A VEHICLE*** as the latter term or phrase is used in W.V. Code, § 17C-5-2.  
(Am. Ord. passed 5-17-1994)

### **§ 72.03 RECKLESS DRIVING.**

Any person who drives any vehicle in willful or wanton disregard for the safety of persons or property is guilty of reckless driving.  
(1970 Code, § 20-73.19) (Am. Ord. passed 5-17-1994)

## ***CHEMICAL TEST FOR INTOXICATION***

### **§ 72.20 IMPLIED CONSENT TO TEST; ADMINISTRATION AT DIRECTION OF LAW ENFORCEMENT OFFICER; DESIGNATION OF TYPE OF TEST.**

Any person who drives a motor vehicle in this city shall be deemed to have given his consent by the operation thereof, subject to the provisions of this chapter, to a preliminary breath analysis and 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 of this chapter whenever a law enforcement officer

has reasonable cause to believe a person to have committed an offense prohibited by § 72.01. A secondary test of blood, breath or urine shall be incidental to a lawful arrest and shall be administered at the direction of the arresting law enforcement officer having reasonable grounds to believe the person to have committed an offense prohibited by § 72.01. The law enforcement agency shall designate which one of the aforesaid secondary tests shall be administered; provided, that if the test so designated is a blood test and the person so arrested refuses to submit to such blood test, then the law enforcement officer making such arrest shall designate in lieu thereof, either a breath or urine test to be administered, and such refusal to submit to a blood test only shall not result in the revocation of the arrested person's license to operate a motor vehicle in this state. Any person to whom a preliminary breath test is administered who is then arrested shall be given a written statement advising him that his refusal to submit to the secondary chemical test finally designated as provided in this section will result in the revocation of his license to operate a motor vehicle in this state for a period of at least 1 year and up to life. (1970 Code, § 20-73.20) (Am. Ord. passed 5-17-1994)

#### **§ 72.21 PRELIMINARY ANALYSIS OF BREATH TO DETERMINE ALCOHOLIC CONTENT OF BLOOD.**

When a law enforcement officer has reason to believe a person has committed an offense prohibited by § 72.01, the law enforcement officer may require such person to submit to a preliminary breath analysis for the purpose of determining such person's blood alcohol content. Such breath analysis must be administered as soon as possible after the law enforcement officer has a reasonable belief that the person has been driving while under the influence of alcohol, controlled substances or drugs. Any preliminary breath analysis required under this section must be administered with a device and in a manner approved by the West Virginia Department of Health for that purpose. The results of a preliminary breath analysis shall be used solely for the purpose of guiding the officer in deciding whether an arrest should be



made. When a driver is arrested following a preliminary breath analysis, the tests as hereinafter provided in this chapter shall be administered in accordance with the provisions thereof.  
(Am. Ord. passed 5-17-1994)

**§ 72.22 HOW BLOOD TEST ADMINISTERED; ADDITIONAL TEST AT OPTION OF PERSON TESTED; USE OF TEST RESULTS; CERTAIN IMMUNITY FROM LIABILITY INCIDENT TO ADMINISTERING TEST.**

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

(1970 Code, § 20-73.22)

**§ 72.23 INTERPRETATION AND USE OF CHEMICAL TEST.**

(A) Upon trial for the offense of driving a motor vehicle in this city while under the influence of alcohol, controlled substances or drugs, or upon the trial of any civil or criminal action arising out of acts alleged to have been committed by any person driving a motor vehicle while under the influence of alcohol, controlled substances or drugs, evidence of the amount of alcohol in the person's blood at the time of the arrest or of the acts alleged, as shown by a chemical analysis of his blood, breath or urine, is admissible, if the sample or specimen was taken within 2 hours from and after the time of arrest or of the acts alleged, and shall give rise to the following presumptions or have the following effect:

(1) 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;

(2) Evidence that there was, at that time, more than five hundredths of one percent and less than ten 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;

(3) Evidence that there was, at that time, ten 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.

(B) Percent by weight of alcohol in the blood shall be based upon milligrams of alcohol per 100 cubic centimeters of blood.

(C) A chemical analysis of a person's blood, breath or urine, in order to give rise to the presumptions or to have the effect provided for in subsections (1), (2) and (3) of this section, must be performed in accordance with

methods and standards approved by the West Virginia 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 West Virginia State Police scientific laboratory of the Criminal Identification Bureau of the West Virginia Department of Public Safety.

(D) The provisions of this chapter shall not limit the introduction in any administrative or judicial proceeding of any other competent evidence bearing on the question of whether the person was under the influence of alcohol, controlled substances or drugs.  
(1970 Code, § 20-73.23) (Am. Ord. passed 5-17-1994)

#### **§ 72.24 RIGHT TO DEMAND TEST.**

Any person lawfully arrested for driving a motor vehicle in this city while under the influence of alcohol, controlled substances or drugs shall have the right to demand that a sample or specimen of his blood, breath or urine be taken within 2 hours from and after the time of arrest and that a chemical test thereof be made. The analysis disclosed by such chemical test shall be made available to such arrested person forthwith upon demand.  
(1970 Code, § 20-73.24) (Am. Ord. passed 5-17-1994)

## **CHAPTER 73: STOPPING, STANDING AND PARKING**

### Section

- 73.01     Parking of unlicensed, disabled or abandoned vehicles prohibited
- 73.02     Stopping, standing or parking prohibited in specified places
- 73.03     Right and left parallel parking; angle parking
- 73.04     Parking within marked spaces and not across terminal lines
- 73.05     Parking not to obstruct traffic
- 73.06     Parking within same block with Fire Department apparatus stopped in response to alarm
- 73.07     Unattended motor vehicle
- 73.08     Lamps on parked vehicles
- 73.09     Prohibited parking zones designated by yellow paint or otherwise
- 73.10     Loading zones
- 73.11     Traffic-control parking sign directives must be obeyed; authority of Common Council to erect traffic-control parking signs
- 73.12     Presumption as to illegal parking and condition precedent thereto
- 73.13     Removal of unattended, illegally parked vehicles
- 73.14     Truck tractors and road tractors
- 73.15     Handicapped parking

### **§ 73.01 PARKING OF UNLICENSED, DISABLED OR ABANDONED VEHICLES PROHIBITED.**

(A) It shall be unlawful for any person to stand or park an unlicensed motor vehicle upon any street or within any public place in the city.

(B) It shall be unlawful for any person to stand or park, upon any street or within any public place in the city, a motor vehicle which is incapable of motion under its own power, except in case of emergency and then only for so long as may be necessary to procure the removal of such vehicle.

(C) It shall be unlawful to abandon any vehicle upon any street or within any public place in the city; vehicles parked upon the streets or within the public places for 48 consecutive hours shall be presumed to have been abandoned.

(1970 Code, § 20-82) Penalty, see § 10.99

**§ 73.02 STOPPING, STANDING OR PARKING PROHIBITED IN SPECIFIED PLACES.**

(A) No person shall stop, stand or park a vehicle, except when necessary to avoid conflict with other traffic or in compliance with law or the directions of a police officer or traffic-control device, in any of the following places:

- (1) On a sidewalk;
- (2) In front of a public or private driveway;
- (3) Within an intersection;
- (4) Within 15 feet of a fire hydrant;
- (5) On a crosswalk;
- (6) Within 20 feet of a crosswalk at an intersection;

- (7) Within 30 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 30 feet of points on the curb immediately opposite the ends of a safety zone, unless a different length is indicated by signs or markings;
- (9) Within 50 feet of the nearest rail of a railroad crossing;
- (10) Within 20 feet of the driveway entrance to any fire station and on the side of a street opposite the entrance to any fire station within 75 feet of such entrance (when properly 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 traffic-control signs prohibit stopping;
- (15) Within 20 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) Upon any controlled-access highway;
- (17) At any place on any highway where the safety and convenience of the traveling public is thereby endangered.

(B) 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.

(1970 Code, § 20-83) Penalty, see § 70.999

**Statutory reference:**

*Authority of city to regulate the use of streets  
belonging to the city, see W.V. Code,  
§ 8-12-5(4)*

*Authority of city to acquire, maintain and operate  
motor vehicle parking lots, see W.V. Code,  
§§ 8-12-5(36), and 8-12-12*

*Corresponding provisions of state motor vehicle  
law, see W.V. Code, § 17C-13-3*

*State law relating to stopping, standing and  
parking, see W.V. Code, §§ 17C-13-1 et seq.*

**§ 73.03 RIGHT AND LEFT PARALLEL PARKING; ANGLE PARKING.**

(A) Except as otherwise provided in this section, every vehicle stopped or parked upon a roadway where there are adjacent curbs shall be so stopped or parked with the wheels of such vehicle nearest the curb parallel to and within 18 inches of the curb.

(B) Where official traffic-control signs or markings are in place indicating angle parking, vehicles shall be parked in compliance with the directive of such signs or markings.

(1970 Code, § 20-84)

**Statutory reference:**

*For corresponding provisions of state motor  
vehicle law, see W.V. Code, § 17C-13-4*

**§ 73.04 PARKING WITHIN MARKED SPACES AND NOT ACROSS TERMINAL LINES.**

Where official traffic-control markings are in place indicating vehicle parking spaces, no person shall park a vehicle so that it will occupy any part of more than 1 such parking space; nor shall any person park a vehicle so that any part of such vehicle extends over any traffic-control marking which indicates that parking is prohibited beyond such marking.

(1970 Code, § 20-85) Penalty, see § 70.999

**§ 73.05 PARKING NOT TO OBSTRUCT TRAFFIC.**

No person shall stop, stand or park a vehicle so as to prevent the free and unimpeded passage of other vehicles.

(1970 Code, § 20-86) Penalty, see § 70.999

**§ 73.06 PARKING WITHIN SAME BLOCK WITH FIRE DEPARTMENT APPARATUS STOPPED IN RESPONSE TO ALARM.**

The driver of any vehicle other than one on official public business shall not drive into or park such vehicle within the block where fire apparatus has stopped in answer to a fire alarm.

(1970 Code, § 20-87) Penalty, see § 70.999

**Statutory reference:**

*Corresponding provisions of state motor vehicle  
law, see W.V. Code, § 17C-14-9*

### **§ 73.07 UNATTENDED MOTOR VEHICLE.**

No person driving or in charge of a motor vehicle shall permit it to stand unattended without first stopping the engine, locking the ignition, removing the key, effectively setting the brake thereon and, when standing upon any grade, turning the front wheels to the curb or side of the highway.

(1970 Code, § 20-88) Penalty, see § 70.999

***Statutory reference:***

*Corresponding provisions of state motor vehicle law, see W.V. Code, § 17C-14-1*

### **§ 73.08 LAMPS ON PARKED VEHICLES.**

(A) Whenever a vehicle is lawfully parked upon a street 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 500 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 500 feet upon such roadway, such vehicle so parked or stopped shall be equipped with 1 or more lamps meeting the following requirements: at least 1 lamp shall display a white or amber light visible from a distance of 500 feet to the front of the vehicle, and the same lamp or at least 1 other lamp shall display a red light visible from a distance of 500 feet to the rear of the vehicle, and the location of such lamp or lamps shall always be such that at least 1 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.  
(1970 Code, § 20-89) Penalty, see § 70.999

### **§ 73.09 PROHIBITED PARKING ZONES DESIGNATED BY YELLOW PAINT OR OTHERWISE.**

(A) No person shall stand or park a vehicle adjacent to a curb which is painted yellow by authority of the Common Council, except momentarily to take or to discharge passengers and then for no longer than 3 minutes.

(B) It is a misdemeanor for any person to park a motor vehicle in disregard or contrary to the foregoing restrictions, and every person convicted of such violation shall be punished by a fine of not more than \$50.  
(1970 Code, § 20-90) (Am. Ord. passed 12-19-1978)

***Statutory reference:***

*For corresponding provisions of state motor vehicle law, see W.V. Code, § 17C-15-15*

### **§ 73.10 LOADING ZONES.**

No person shall stand or park a vehicle adjacent to a curb which is marked or posted as a loading zone by authority of the Common Council, except that the owner or occupant of the premises abutting such curb, and persons having business with such owner or occupant, may stand or park vehicles thereat for the purpose of loading or unloading cargo, but only for such period of time as is necessary for such purpose; provided, that other persons may stop their vehicles thereat momentarily for no longer than 3 minutes for the purpose of taking on or discharging passengers, when such space is not required by another vehicle for the loading or unloading of cargo.

(1970 Code, § 20-91)

### **§ 73.11 TRAFFIC-CONTROL PARKING SIGN DIRECTIVES MUST BE OBEYED; AUTHORITY OF COMMON COUNCIL TO ERECT TRAFFIC-CONTROL PARKING SIGNS.**

(A) At any place where an official traffic-control sign is in place, indicating that parking at such place is prohibited, or is prohibited during certain hours of the day or days of the week, in excess of a certain period of time, is restricted to certain vehicles or certain uses or is limited in any other respect, no person shall stand or park a vehicle or permit a vehicle to remain standing or parked at such place in violation of the prohibition or limitation indicated by such sign.

(B) The Common Council may designate streets and public places, or portions thereof, within the city upon which or at which parking shall be prohibited, restricted or limited in such manner and to such extent as may be considered necessary by the Council for the regulation of the use of such streets and public places in the best interest of the public and may direct the Chief of Police to place or cause to be placed official traffic-control signs at such places to give notice of the prohibitions, restrictions or limitations so imposed. Included within the meaning of this section are the following official traffic-control signs, among others not specified herein:

- (1) No parking at any time;
- (2) No parking between 4:00 p.m. and 6:00 p.m.;
- (3) Two hour parking;
- (4) Parking prohibited, except Sundays and holidays;
- (5) No parking this side of street;
- (6) No parking from here to corner;
- (7) Bus stop;
- (8) Safety zone;
- (9) Physician parking only;
- (10) Official cars only; and

(11) Other prohibitions, restrictions and limitations on parking as by ordinance or resolution determined by the Common Council.

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

(D) It shall be unlawful for any person in the aforesaid areas to leave, permit or cause to be left or permitted any motor vehicle parked for a continuous period in excess of 2 hours.  
(1970 Code, § 20-92) (Am. Ord. passed 11-5-1974) Penalty, see § 10.99

***Statutory reference:***

*Authority of Common Council to regulate the use  
of streets and public places belonging to the  
city, see W.V. Code, § 8-12-5(4)*

**§ 73.12 PRESUMPTION AS TO ILLEGAL PARKING AND CONDITION PRECEDENT THERETO.**

(A) In any prosecution in the Police Court charging the violation of any provision of this chapter, proof that the particular vehicle described in the complaint was parked in violation of such provisions, together with proof that the defendant named in the complaint was, at the time of such alleged violation the registered owner of such vehicle, shall constitute prima facie evidence that the registered owner of such vehicle was the person who parked such vehicle at the point where, and for the time during which, such alleged violation occurred; provided, that such prima facie presumption may be rebutted by competent evidence.

(B) This section shall not be applicable unless the driver of the vehicle described in the complaint was given notice of the alleged violation or, if such vehicle was unattended at the time of discovery of the alleged violation, notice of the alleged violation was affixed to or placed within or upon such vehicle.  
(1970 Code, § 20-93)

**§ 73.13 REMOVAL OF UNATTENDED, ILLEGALLY PARKED VEHICLES.**

Whenever any motor vehicle, trailer or semitrailer is found on the public streets or public places unattended by the owner or operator and constitutes a hazard to traffic or is parked in a zone or area adequately posted and marked "Tow-Away Zone" or is parked in such manner as to be in violation of law, or whenever any motor vehicle or semitrailer is left unattended for more than 24 hours upon any privately owned property other than the property of the owner of such motor vehicle, trailer or semitrailer within the town or is abandoned upon such privately owned property without the permission of the owner, lessee or occupant thereof, any such motor vehicle, trailer or semitrailer may be removed for safekeeping by or under the direction of a police officer to a storage garage or area; provided, that no such vehicle shall be so removed from privately

owned premises without the written request of the owner, lessee or occupant thereof. The person at whose request such motor vehicle, trailer or semitrailer is removed from privately owned property shall indemnify the town against any loss or expense incurred by reason of removal, storage or sale thereof. Each removal shall be reported immediately to the Chief of Police, who shall give notice to the owner of the motor vehicle, trailer or semitrailer as promptly as possible. The owner, before obtaining possession of the motor vehicle, trailer or semitrailer shall pay to the city, or its designee or agent performing such removal, all reasonable costs incidental to the removal, storage and locating the owner of the motor vehicle, trailer or semitrailer. Should the owner fail or refuse to pay the costs or should the identity or whereabouts of the owner be unknown and unascertainable after a diligent search has been made, and after notice to the owner at his last known address and to the holder of any lien of record in the office of the Department of Motor Vehicles against the motor vehicle, trailer or semitrailer, the Chief of Police may, after holding the motor vehicle, trailer or semitrailer 30 days and after due notice of sale, dispose of the same at public sale, and the proceeds from the sale shall be forwarded by the Chief of Police to the Treasurer of the city; provided, that if the value of such motor vehicle, trailer or semitrailer is determined by 3 disinterested dealers or garagemen to be less than the \$50 which would be incurred by such advertising and public sale, it may be disposed of by private sale or junked.  
(1970 Code, § 20-101.1)

***Statutory reference:***

*Authority of city to acquire, maintain and operate  
metered vehicle parking lots, see W.V. Code,  
§ 8-12-12*

**§ 73.14 TRUCK TRACTORS AND ROAD TRACTORS.**

The use and operation, including parking, standing and stopping of all truck tractors and road tractors on municipally owned streets, highways and alleys, excepting only when and while making actual

deliveries and pick-ups at or to locations on such streets, highways and alleys, is prohibited.  
(Ord. passed 2-21-1989) Penalty, see § 70.999

### **§ 73.15 HANDICAPPED PARKING.**

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

***PHYSICALLY HANDICAPPED PERSON WITH LIMITED MOBILITY.*** Any person who suffers from a permanent physical condition making it unduly difficult and burdensome for such person to walk.

***PHYSICALLY DISABLED PERSON.*** Any person who has sustained a temporary disability rendering it unduly difficult and burdensome for him to walk.

(B) (1) Free stopping, standing or parking places marked “reserved for disabled persons” or “handicapped parking” shall be designated in close proximity to all municipal buildings and other public facilities. Such places shall be reserved solely for physically disabled and handicapped persons during the hours that such buildings are open for business.

(2) Any person whose vehicle properly displays a valid special registration plate or decal may park the vehicle for unlimited periods of time in parking zones unrestricted as to length of parking time permitted; provided, that this privilege does not mean that the vehicle may park in any zone where stopping, standing or parking is prohibited or which creates parking zones for special types of vehicles or which prohibits parking during heavy traffic periods during specified rush hours or where parking would clearly present a traffic hazard. To the extent any provision of any ordinance of this municipality is contrary to the provisions of this section, the provisions of this section shall take precedence and shall apply.

(3) The privileges provided for in this section shall apply only during those times when the

vehicle is being used for the transportation of a physically handicapped or disabled person. No person shall knowingly exercise, or attempt to exercise, such privileges at a time when the vehicle is not being used for the transportation of a physically handicapped or disabled person.

(C) No person shall stop, stand or park a motor vehicle in an area designated, zoned or marked for the handicapped or physically disabled, when such person is not physically disabled or handicapped and does not have displayed upon his vehicle a distinguished insignia for the handicapped issued by the Commissioner of Highways; provided that any person in the act of transporting a handicapped or physically disabled person, as defined by this section, may stop, stand or park a motor vehicle not displaying a distinguishing insignia for the handicapped in an area designated, zoned or marked for the physically disabled for the limited purposes of loading or unloading his handicapped or physically disabled passenger; provided however, that such vehicle shall be promptly moved after the completion of such limited purposes.

(D) It is a misdemeanor for any person to violate any of the provisions of this section unless such violation is by any law of this state declared to be a felony. Every person convicted of a misdemeanor for a violation of any of the provisions of this section for which another penalty is not provided shall for a conviction thereof be punished by a fine of not more than \$10.

(Ord. passed 11-16-1993)

## CHAPTER 74: PEDESTRIANS

### Section

- 74.01 Applicability of traffic-control signals; privileges and restrictions
- 74.02 Right-of-way in crosswalks
- 74.03 Crossing at other than crosswalks
- 74.04 Drivers to exercise due care
- 74.05 Pedestrians to use right half of crosswalks
- 74.06 Pedestrians on roadways; soliciting rides
- 74.07 Protection of blind pedestrians on public streets and highways; use of certain canes restricted
- 74.08 Persons working on streets and highways

### § 74.01 APPLICABILITY OF TRAFFIC-CONTROL SIGNALS; PRIVILEGES AND RESTRICTIONS.

At intersections having pedestrian walk and wait traffic-control signals in operation as mentioned in § 70.040, pedestrians shall strictly comply with the directives given by such signals; at intersections having no such walk and wait signals but having traffic-control signals in operation with legends mentioned in § 70.039, pedestrians shall be subject to such signals and shall not cross a roadway when to do so would interfere with vehicular traffic permitted by such signal to move upon the roadway. At intersections having no traffic-control signal in operation and at all other places pedestrians shall be accorded the privileges and shall be subject to the restrictions stated in this chapter.

(1970 Code, § 20-74)

#### **Statutory reference:**

*Corresponding provisions of state motor vehicle law, see W.V. Code, § 17-10-1*

### § 74.02 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.

(1970 Code, § 20-75)

#### **Statutory reference:**

*Corresponding provisions of state motor vehicle law, see W.V. Code, § 17C-10-2*

### § 74.03 CROSSING AT OTHER THAN CROSSWALKS.

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

(B) Between adjacent intersections at which traffic-control signals are in operation pedestrians



shall not cross at any place except in a marked crosswalk.  
(1970 Code, § 20-76)

***Statutory reference:***

*Corresponding provisions of state motor vehicle law, see W.V. Code, § 17C-10-3*

**§ 74.04 DRIVERS TO EXERCISE DUE CARE.**

Notwithstanding the foregoing provisions of this chapter, 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.

(1970 Code, § 20-77)

***Statutory reference:***

*Corresponding provisions of state motor vehicle law, see W.V. Code, § 17C-10-4*

**§ 74.05 PEDESTRIANS TO USE RIGHT HALF OF CROSSWALKS.**

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

(1970 Code, § 20-78)

***Statutory reference:***

*Corresponding provisions of state motor vehicle law, see W.V. Code, § 17C-10-5*

**§ 74.06 PEDESTRIANS ON ROADWAYS; SOLICITING RIDES.**

(A) Where sidewalks are provided, it shall be unlawful for any pedestrian to walk along and upon an adjacent roadway.

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

(C) No person shall stand in a roadway for the purpose of soliciting a ride from the driver of any vehicle.  
(1970 Code, § 20-79)

**§ 75.07 PROTECTION OF BLIND PEDESTRIANS ON PUBLIC STREETS AND HIGHWAYS; USE OF CERTAIN CANES RESTRICTED.**

(A) Whenever a pedestrian is crossing or attempting to cross a public street or highway, at or near an intersection or crosswalk, guided by a guide dog, or carrying in a raised or extended position a cane or walking stick which is metallic or white in color, or white tipped with red, the driver of every vehicle approaching such intersection or crosswalk shall take such precautions as may be necessary to avoid injuring or endangering such pedestrian, and if injury or danger to such pedestrian can be avoided only by bringing the vehicle to a full stop, the driver shall do so. No person, who is not totally or partially blind or otherwise incapacitated, shall carry on any public street or highway in a raised or extended position a cane or walking stick which is metallic or white in color, or white tipped with red.

(B) Nothing contained in this section shall be construed to deprive any totally or partially blind or otherwise incapacitated person, not carrying such a cane or walking stick or not being guided by a dog, of the rights and privileges conferred by law upon pedestrians crossing the streets or highways, nor shall the failure of such totally or partially blind or otherwise incapacitated person to carry a cane or walking stick, or to be guided by a guide dog upon the streets, highways or sidewalks of this city, be construed to constitute or be evidence of contributory negligence.

(1970 Code, § 20-80)

***Statutory reference:***

*Corresponding provisions of state motor vehicle law, see W.V. Code, § 17C-10-7*

#### **§ 74.08 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.  
(1970 Code, § 20-81)

***Statutory reference:***

*Corresponding provisions of state motor vehicle  
law, see W.V. Code, § 17C-10-8*



## CHAPTER 75: BICYCLES

### Section

#### ***General Provisions***

- 75.01 Compliance mandatory
- 75.02 Responsibility of parents and guardians
- 75.03 Applicability
- 75.04 Manner of parking
- 75.05 Court may impound bicycles found in violation
- 75.06 Jurisdiction of courts as to violations

#### ***Equipment***

- 75.45 Lamps and reflectors required for night use
- 75.46 Brakes

#### ***Operation***

- 75.60 Traffic laws and ordinances applicable to bicycles
- 75.61 Required obedience to traffic-control devices and signs
- 75.62 Speed
- 75.63 Duty upon emerging from alley, driveway or building
- 75.64 Manner of riding
- 75.65 Number of riders
- 75.66 Clinging to vehicles
- 75.67 Riding on roadways and bicycle paths
- 75.68 Carrying packages and the like
- 75.69 Riding on sidewalks of certain city blocks prohibited; responsibility of parents and guardians
- 75.99 Penalty

#### ***Statutory reference:***

*State law as to bicycles and play vehicles, see W.V. Code, §§ 176-11-1 et seq.*

### ***GENERAL PROVISIONS***

#### **§ 75.01 COMPLIANCE MANDATORY.**

It shall be unlawful for any person to do any act forbidden in this chapter or to fail to do any act required in this chapter.

(1970 Code, § 5-1) (Ord. passed 11-1-1966) Penalty, see § 75.99

#### **§ 75.02 RESPONSIBILITY OF PARENTS AND GUARDIANS.**

The parent of any child and the guardian of any ward shall not authorize, or knowingly permit, his child or ward to violate any of the provisions of this chapter.

(1970 Code, § 5-2) (Ord. passed 11-1-1966)

#### **§ 75.03 APPLICABILITY.**

The provisions of this chapter shall apply whenever a bicycle is operated upon any street or public place or upon any path set aside for the exclusive use of bicycles, subject to the exceptions stated herein.

(1970 Code, § 5-3) (Ord. passed 11-1-1966)

#### **§ 75.04 MANNER OF PARKING.**

No person shall park a bicycle upon a street other than upon the roadway, against the curb, or upon the sidewalk in a rack to support the bicycle, or against a building, or at the curb, and then in such manner as to afford the least obstruction to pedestrian traffic.

(1970 Code, § 5-4) (Ord. passed 11-1-1966)

#### **§ 75.05 COURT MAY IMPOUND BICYCLES FOUND IN VIOLATION.**

In case of violation of any of the provisions of this chapter, the court may, in lieu of or in addition to the other penalties provided, impound a bicycle involved in such violation for a period of not more than 30 days.

(1970 Code, § 5-7) (Ord. passed 11-1-1966)

#### **§ 75.06 JURISDICTION OF COURTS AS TO VIOLATIONS.**

Jurisdiction to enforce this chapter is specifically vested in the police court, except for those cases in which the juvenile court of the county has jurisdiction, and except in those cases wherein the police court can have no jurisdiction.

(1970 Code, § 5-8) (Ord. passed 11-1-1966)

***Statutory reference:***

*Exclusive jurisdiction of juvenile courts of persons under 18 for violation of municipal ordinances, see W.V. Code, § 49-5-3*

### ***EQUIPMENT***

#### **§ 75.45 LAMPS AND REFLECTORS REQUIRED FOR NIGHT USE.**

Every bicycle when in use at night time shall be equipped with a lamp on the front, which shall emit a white light visible from a distance of at least 500 feet to the front, and with a red reflector on the rear of a

type which shall be visible from all distances from 50 feet to 300 feet to the rear when directly in front of lawful upper beams of headlamps on a motor vehicle. A lamp emitting a red light visible from a distance of 500 feet to the rear may be used in addition to the red reflector.

(1970 Code, § 5-23) (Ord. passed 11-1-1966)

***Statutory reference:***

*Similar state law, see W.V. Code, § 17C-11-7(a)*

**§ 75.46 BRAKES.**

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

(1970 Code, § 5-25) (Ord. passed 11-1-1996)

***Statutory reference:***

*Similar state law, see W.V. Code, § 17C-11-7(c)*

***OPERATION***

**§ 75.60 TRAFFIC LAWS AND ORDINANCES APPLICABLE TO BICYCLES.**

Every person riding a bicycle upon a street shall be granted all of the rights and shall be subject to all of the duties applicable to the driver of a vehicle by the laws of this state declaring rules of the road applicable to vehicles or by the traffic regulations of this code or other ordinances of this city applicable to the driver of a vehicle, except as to those provisions of law and ordinance which, by their nature, can have no application.

(1970 Code, § 5-26) (Ord. passed 11-1-1966)

***Statutory reference:***

*Authority of city to regulate the use of streets,  
sidewalks and public places, see W.V. Code,  
§ 8-12-5(4)*

*Similar state law, see W.V. Code, § 17C-11-2*

*State traffic regulations and laws of the road, see  
W.V. Code, Chapter 17C*



## **§ 75.61 REQUIRED OBEDIENCE TO TRAFFIC-CONTROL DEVICES AND SIGNS.**

(A) Any person operating a bicycle shall obey the instructions of official traffic-control signals, signs and other control devices applicable to vehicles, unless otherwise directed by a police officer.

(B) Whenever authorized signs are erected indicating that no right, left or U turn is permitted, no person operating a bicycle shall disobey the direction of any such sign, except where such person dismounts from the bicycle to make any such turn; in which event such person shall then obey the regulations applicable to pedestrians.

(1970 Code, § 5-27) (Ord. passed 11-1-1966) Penalty, see § 75.99

### ***Statutory reference:***

*Required obedience by vehicle drivers to traffic-control devices, placement of official signs and the like, see W.V. Code, § 17C-3-4*

## **§ 75.62 SPEED.**

No person shall operate a bicycle at a speed greater than is reasonable and prudent under the conditions then existing.

(1970 Code, § 5-28) (Ord. passed 11-1-1966) Penalty, see § 75.99

### ***Statutory reference:***

*Similar state law as to vehicle drivers, see W.V. Code, § 17C-6-1(a)*

## **§ 75.63 DUTY UPON EMERGING FROM ALLEY, DRIVEWAY OR BUILDING.**

The operator of a bicycle emerging from an alley, driveway or building shall, upon the approach to a sidewalk or the sidewalk area extending across

any alleyway, yield the right-of-way to all pedestrians and vehicles approaching the roadway.  
(1970 Code, § 5-29) (Ord. passed 11-1-1966) Penalty, see § 75.99

***Statutory reference:***

*State law as to stopping of vehicle before  
emerging from alley or private driveway, see  
W.V. Code, § 17C-12-6*

**§ 75.64 MANNER OF RIDING.**

A person propelling a bicycle shall not ride other than astride a permanent and regular seat attached thereto.  
(1970 Code, § 5-30) (Ord. passed 11-1-1966) Penalty, see § 75.99

***Statutory reference:***

*Similar state law, see W.V. Code, § 17C-11-3*

**§ 75.65 NUMBER OF RIDERS.**

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

(1970 Code, § 5-31) (Ord. passed 11-1-1966) Penalty, see § 75.99

***Statutory reference:***

*Similar state law, see W.V. Code, § 17C-11-3*

**§ 75.66 CLINGING TO VEHICLES.**

No person riding upon any bicycle shall attach the bicycle or himself to any vehicle or other bicycle upon a highway or street.

(1970 Code, § 5-32) (Ord. passed 11-1-1966) Penalty, see § 70.999

***Statutory reference:***

*Similar state law, see W.V. Code, § 17C-11-4*

**§ 75.67 RIDING ON ROADWAYS 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 2 abreast except on paths or parts of roadways set aside for the exclusive use of bicycles.

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

(1970 Code, § 5-33) (Ord. passed 11-1-1966) Penalty, see § 70.999

***Statutory reference:***

*Similar state law, see W.V. Code, § 17C-11-5*

**§ 75.68 CARRYING PACKAGES AND THE LIKE.**

No person operating a bicycle shall carry any package, bundle or article which prevents the rider from keeping at least 1 hand on the handle bars.

(1970 Code, § 5-34) (Ord. passed 11-1-1966) Penalty, see § 70.999

***Statutory reference:***

*Similar state law, see W.V. Code, § 17C-11-6*

**§ 75.69 RIDING ON SIDEWALKS OF CERTAIN CITY BLOCKS PROHIBITED; RESPONSIBILITY OF PARENTS AND GUARDIANS.**

(A) It shall be unlawful for any person to ride a bicycle upon the sidewalks in those blocks of Washington Street from Sand Street to Sycamore Street, inclusive; and those blocks of Sand Street, Walnut Street, Mulberry Street and Sycamore Street, from Race Street to Virginia Street, inclusive; and other blocks which are posted by authority of a resolution of the Common Council so as to give notice that the riding of bicycles on the sidewalks is prohibited.

(B) It shall be unlawful for any person to ride or operate a bicycle or a skateboard upon the sidewalks or areas of the sidewalks located in the Ravenswood Shopping Plaza, commonly known as the Shopping Center, where the same is prohibited by legible posted signs or otherwise clearly marked in the Ravenswood Shopping Plaza.

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

(1970 Code, § 5-35) (Ord. passed 3-2-1965; Am. Ord. passed 10-20-1994) Penalty, see § 70.999

***Statutory reference:***

*Authority of city to regulate the use of sidewalks,  
see W.V. Code, § 8-12-5(4)*

**§ 75.99 PENALTY.**

(A) Whoever violates any provision of this code for which no specific penalty is provided shall be punished as set forth in § 10.99. No jail sentence is authorized for violation of this chapter.

(B) Whoever violates any provision of § 75.69 may, upon conviction:

(1) If an adult, be fined not less than \$5 and not more than \$25;

(2) If an infant under the age of 18, be punished by the loss of use of the bicycle, for the first offense, not more than 5 days; for the second offense, a period of 20 to 30 days; and the members of the Police Department are authorized to remove and impound the bicycle of any such infant for such violation.

(1970 Code, § 5-36) (Ord. passed 3-2-1965)

## CHAPTER 76: ALL-TERRAIN VEHICLES

### Section

- 76.01 Definitions
- 76.02 Prohibition of operation and use of all-terrain vehicles
- 76.03 Exceptions
- 76.04 Exemptions
- 76.05 Authorizing or permitting a minor to violate any provision of this chapter
  
- 76.99 Penalty

### § 76.01 DEFINITIONS.

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

***ALL-TERRAIN VEHICLE (ATV).*** Any motor vehicle designed for off-highway use and designed for operator use only with no passengers, having a seat or saddle designed to be straddled by the operator, and handlebars for steering control.

***MOTOR VEHICLE.*** Every vehicle which is self-propelled and every vehicle which is propelled by electric power obtained from overhead trolley wires, but not upon rails.  
(Ord. passed 8-19-2003)

### § 76.02 PROHIBITION OF OPERATION AND USE OF ALL-TERRAIN VEHICLES.

The riding, operation, or other use of all-terrain vehicles for transportation or recreational purposes within or upon the streets, alleys, sidewalks, parking lots, and other realty owned, leased or controlled

property by the city or any of its boards, authorities, or commissions is prohibited.  
(Ord. passed 8-19-2003)

### § 76.03 EXCEPTIONS.

(A) Notwithstanding any other provisions of this code, it shall not be an offense for any person to lawfully ride or operate any such all-terrain vehicle upon any governmentally-owned realty not owned or controlled by

the city or any of its boards, authorities, or commissions located within the corporate limits of the city.

(B) Notwithstanding any other provision of this code, it shall not be an offense for any person licensed to operate a motor vehicle within the State of West Virginia, to ride, operate, or otherwise use an all-terrain vehicle upon a designated parade route, when such person is a duly registered and recognized participant in any such permitted parade, provided that such all-terrain vehicle riding or operation occurs in conjunction with the parade.

(C) Notwithstanding any other provision of this code, it shall not be an offense for any person licensed to operate a motor vehicle within the State of West Virginia, to ride, operate, or otherwise use an all-terrain vehicle on the streets, alleys, sidewalks, parking lots, and other realty-owned, leased, or controlled property by the city or any of its boards, authorities, or commissions for purposes of snow removal, if such vehicle is affixed or attached with implements or equipment specifically designed for that purpose, and to be used on such vehicles.

(D) Notwithstanding any other provision of this code, it shall not be an offense for any person licensed to operate a motor vehicle within the State of West Virginia, to ride, operate, or otherwise use an all-terrain vehicle on the streets, alleys, sidewalks, parking lots, and other realty-owned, leased, or controlled property by the city or any of its boards, authorities, or commissions during a period of emergency when the emergency has been so declared by the Mayor.

(E) Notwithstanding any other provision of this code, it shall not be an offense for any person to ride or operate a farm tractor when used for mowing or other yard work, lawnmowers, snow removal equipment, and handicapped assistance devices when used by a handicapped person.  
(Ord. passed 8-19-2003)

#### **§ 76.04 EXEMPTIONS.**

The Federal Government, the State of West Virginia, and its political subdivisions are exempt from the prohibitions contained herein, when any such all-terrain vehicle is used for government purposes.  
(Ord. passed 8-19-2003)

#### **§ 76.05 AUTHORIZING OR PERMITTING A MINOR TO VIOLATE ANY PROVISION OF THIS CHAPTER.**

No person shall authorize or knowingly permit a minor to violate any provision within this chapter. Any such violation or knowingly permitting any such minor to violate the provisions of this chapter shall constitute a criminal violation hereof and shall subject such person to the criminal penalties set forth in this chapter. The citing of any person pursuant to this section shall not be reason to prohibit the police officer from also citing the driver of the all-terrain vehicle.  
(Ord. passed 8-19-2003)

**§ 76.99 PENALTY.**

(A) Any person who violates § 76.02 shall constitute the commission of a misdemeanor criminal offense, and any officer of the Police Department of the city or any other officer of any police agency exercising proper jurisdiction within the corporate limits of the city is hereby authorized and empowered to issue a citation and to charge any such person who commits a violation of § 76.02. Any person convicted of a first offense established hereunder shall be fined not less than \$25 nor more than \$100. Any person convicted of a second or subsequent offense established hereunder shall be fined not less than \$250.

(B) Any person who violates § 76.05 shall constitute the commission of a misdemeanor criminal offense, and any officer of the Police Department or any other officer of any other police agency exercising proper jurisdiction within the corporate limits of the city is hereby authorized and empowered to issue a citation and to charge any such person who commits a violation of § 76.05. Any person convicted of a first offense established hereunder shall be fined not less than \$25 nor more than \$100. Any person convicted of a second or subsequent offense established hereunder shall be fined not less than \$250.

(Ord. passed 8-19-2003)



## **CHAPTER 77: PARKING SCHEDULES**

### **Schedule**

- I. Stopping, standing or parking in or near certain intersections
- II. Prohibited parking zones designated by yellow paint or otherwise
- III. Two hour parking limit areas
- IV. Truck tractors and road tractors

### **SCHEDULE I. STOPPING, STANDING OR PARKING IN OR NEAR CERTAIN INTERSECTIONS.**

It shall be unlawful and contrary to this code and other ordinances of this city for any person to stop, stand or park any motor vehicle within the following public street intersections or within 50 feet from the center point of such intersections: Walnut and Washington Streets.

(1970 Code, § 20-86.1) (Am. Ord. passed 7-18-1978) Penalty, see § 70.999



**SCHEDULE II. PROHIBITED PARKING ZONES DESIGNATED BY YELLOW PAINT OR OTHERWISE.**

(A) On the south side of Walnut Street, in the area fronting Dudley Florist, there shall be permitted parking for 2 additional motor vehicles for such business customers only, and such area shall be clearly marked for such restricted parking by the erection and placement at such points of one or more signs designating "customer parking only," and the curb for the distance required for such parking spaces shall be painted white.

(B) It is a misdemeanor for any person to park a motor vehicle in disregard or contrary to the foregoing restrictions, and every person convicted of such violation shall be punished by a fine of not more than \$50. (1970 Code, § 20-90) (Am. Ord. passed 12-19-1978)



### **SCHEDULE III. TWO HOUR PARKING LIMIT AREAS.**

(A) The following areas within the corporate limits are designated as controlled 2 hour vehicle parking limit areas:

- (1) Mulberry Street from Virginia Street, West, to Washington Street;
- (2) Walnut Street, both sides, from Virginia Street, West, to Race Street;
- (3) Washington Street, both sides, from Sand Street, North, to Sycamore Street.

(B) It shall be unlawful for any person in the aforesaid areas to leave, permit or cause to be left or permitted any motor vehicle parked for a continuous period in excess of 2 hours.  
(1970 Code, § 20-92) (Am. Ord. passed 11-5-1974) Penalty, see § 70.999



#### **SCHEDULE IV. TRUCK TRACTORS AND ROAD TRACTORS.**

The parking, standing and stopping of all truck and road tractors and trailers on the east side of West Virginia Route 68 South from Mile Post 0.11 being the south access road to Hartley Trucking Company to Mile Post 0.42; being junction of Ohio 338; a total distance of 0.31 mile which are conspicuously posted "Parking Prohibited at All Times."  
(Ord. passed 4-19-1994)

**TITLE IX: GENERAL REGULATIONS**

Chapter

**90. JUNKED OR ABANDONED MOTOR VEHICLES**

**91. FIRE PROTECTION**

**92. ANIMALS**

**93. STREETS AND SIDEWALKS**

**94. PARADES, DEMONSTRATIONS AND PICKETING**





## CHAPTER 90: JUNKED OR ABANDONED MOTOR VEHICLES

### Section

- 90.01 Declarations and policy of Council
- 90.02 Definitions
- 90.03 Abandoning on unenclosed premises;  
remaining on private premises
- 90.04 Duty of owner to cause removal from  
private property
- 90.05 Removal procedure upon violation

### § 90.01 DECLARATIONS AND POLICY OF COUNCIL.

The Common Council recognizes and declares that junked and abandoned vehicles are nuisances to both adults and children and therefor are dangerous, offensive and constitute a present danger to the health, safety and welfare of the city's residents; that junked and abandoned vehicles serve as harborage and breeding places for insects, pests and rodents injurious to the public health, safety and general welfare; that junked and abandoned vehicles serve frequently as temporary or permanent places of human residence not conducive to public health, safety and welfare; therefore, the Common Council declares it to be a public policy of the city in order to eliminate the present danger resulting from junked and abandoned vehicles, and in order to best provide for the public health, safety and welfare, to enact ordinances to that end by prohibiting the abandonment and junking of vehicles thereby providing means and methods for the disposal and elimination of junked and abandoned vehicles.  
(1970 Code, § 11A-1)

### § 90.02 DEFINITIONS.

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

**ABANDON** or **ABANDONED**. To permit or allow any vehicle to become an abandoned vehicle.

**ABANDONED VEHICLE**. Any vehicle or major part thereof that is inoperative and is left unattended on

public property for any period of time over 10 days, or any vehicle or major part thereof that has remained on private property for any period of time over 10 days or any vehicle or major part thereof that is unattended, discarded, deserted and unlicensed or is inoperative for any period of time over 10 days.

**JUNK VEHICLE.** Any vehicle that is not lawfully and validly registered and remains inoperative or incapable of being driven for a period of 10 days after the day the vehicle becomes inoperative or incapable of being driven and which vehicle the owner, bailee or finder, whichever is applicable, within the 10 day period, fails to have made operative or capable of being driven or fails to make arrangements to have the vehicle made operative or capable of being driven.

**VEHICLE.** Any device in, upon, or by which persons or property may be transported or drawn that is operated customarily in contact with or immediately adjacent to the surface of the earth and which device is self-propelled or propelled by an energy providing force except those devices propelled or drawn by human energy or used exclusively upon stationary rails or tracks.  
(1970 Code, § 11A-2)

### **§ 90.03 ABANDONING ON UNENCLOSED PREMISES; REMAINING ON PRIVATE PREMISES.**

(A) No person shall abandon a vehicle at any place in the city, which is not fully enclosed and protected from public view.

(B) It shall be unlawful for any person to cause or permit any junked or abandoned vehicle to remain or accumulate on any lot, tract or parcel of land within the city owned, occupied or leased by such person.  
(1970 Code, § 11A-3) Penalty, see § 10.99

### **§ 90.04 DUTY OF OWNER TO CAUSE REMOVAL FROM PRIVATE PROPERTY.**

It shall be the duty of the owner or occupant of any lot, tract or parcel of land within the city to cause junked and abandoned vehicles to be promptly removed from such property to prevent the same from becoming unsightly, offensive and dangerous to the health, safety and welfare of the city residents.  
(1970 Code, § 11A-4)

### **§ 90.05 REMOVAL PROCEDURE UPON VIOLATION.**

(A) *General.*

(1) In every case of violation of § 90.03, the Mayor may, upon giving not less than 10 days notice to the owner, occupant or lessee of the property involved, cause such junked and abandoned vehicle to be removed and demolished or sold, as hereinafter provided, and all expenses incurred by the city to accomplish same shall be chargeable to and paid by the owner of subject property and the expenses so incurred shall constitute and be a lien on the property.

(2) The payment of the amount so chargeable to the property owner in subsection (1) shall not relieve him of any fine imposed for violation of the provisions of this chapter, nor shall the same constitute a defense to charge of such violation.

(3) Provided, that the owner of such junked or abandoned vehicle shall have the option, within the aforesaid 10 days notice period, to repair and renovate such vehicle into fully operable condition and upon proof by the owner to the city that the same has been done and that such vehicle may then be lawfully operated upon the highways of this state, and in such event no penalty shall be imposed upon such owner, and all further proceedings under this chapter as to subject vehicle shall be vacated.  
(1970 Code, § 11A-5)

(B) *Recordation of notice of lien; enforcement of lien.* Notice of the lien provided for in division (A) of this section shall be recorded in the County Clerk's office. Enforcement of such lien may be made in the same manner as enforcement of a judgment lien, and such manner shall be in addition to any of the lawful means of enforcement or collection of such expenses that are available to the city.  
(1970 Code, § 11A-6)

(C) *Service of notice.* The notice referred to in divisions (A) and (B) of this section shall be sufficient and deemed to have been given when written notice is:

(1) Delivered in person; or

(2) Deposited in the United States mail addressed to the owner, occupant or lessee of the property affected thereby at his last known address; or

(3) When subject notice is posted on the lot, tract or parcel of land affected thereby.  
(1970 Code, § 11-7)

(D) *Disposition.* Any junked or abandoned vehicles removed or taken into custody by the city pursuant to this chapter may be disposed of by prompt demolition or in accordance with the applicable provisions of W.V. Code, §§ 17-24-6 *et seq.*, as amended by an act of the West Virginia Legislature.  
(1970 Code, § 11-8)

## CHAPTER 91: FIRE PROTECTION

### Section

#### ***General Provisions***

- 91.01 Fireworks
- 91.02 Duty of spectators and authority of firefighters and police at scene of fire
- 91.03 Unauthorized riding upon Fire Department apparatus prohibited
- 91.04 Unauthorized use or tampering with Fire Department equipment
- 91.05 Outdoor fires
- 91.06 School fire drills; exits to be unlocked
- 91.07 Conflicts of law

#### ***Fire Prevention Code***

- 91.20 Adopted; purpose; where filed and available to public; how cited
- 91.21 Amendments
- 91.22 Definition
- 91.23 Establishment of limits of districts in which storage of explosives and blasting agents, storage of flammable liquids in outside aboveground tanks, and bulk storage of liquefied petroleum gases is to be restricted
- 91.24 Duration of permits; permit fees
- 91.25 Administration and enforcement
- 91.26 Modifications
- 91.27 Appeals; injunctions
- 91.28 Violations
- 91.29 Conflicts of law

#### ***Statutory reference:***

*Authority of Common Council to make regulations*

*guarding against danger or damage by fire, see*

*W.V. Code, § 8-12-5(15)*

*Authority of State Fire Marshal, see W.V. Code, § 29-3-1 et seq.*

*Plenary power of Common Council to provide for the prevention and extinguishment of fires, see W.V. Code, § 8-15-1*

## ***GENERAL PROVISIONS***

## § 91.01 FIREWORKS.

(A) *Fireworks defined; possession, sale and use of fireworks regulated and permit required.*

(1) The term **FIREWORKS**, as used in this section, shall mean and include any combustible or explosive composition, or any substance or combination of substances, or article prepared for the purpose of producing a visible or an audible effect by combustion, explosion, deflagration or detonations, and shall include blank cartridges, toy pistols, toy cannons, toy canes, or toy guns in which explosives are used, the type of balloons which require fire underneath to propel the same, firecrackers, torpedoes, skyrockets, Roman candles, Daygo bombs, sparklers or other fireworks of like construction and any fireworks containing any explosive or flammable compound, or any tablets or other device containing any explosive substance; provided, that the term fireworks, as herein used, shall not be held to mean and include fixed ammunition for firearms and the primers therefor; and provided further, that the term fireworks, as herein used, shall not include toy pistols, toy canes, toy guns or other devices in which paper caps manufactured in accordance with the United States Interstate Commerce Commission regulations for packing and shipping of toy paper caps are used

and toy pistol paper caps manufactured as provided therein, the sale and use of which shall be permitted at all times.

(2) It shall be unlawful for any person to offer or expose for sale, sell at retail, possess, use or explode any fireworks within the city; provided, that the Chief of the Fire Department, when so authorized by the State Fire Marshal, may grant permits for the supervised public display of fireworks by the city or by fair associations, amusement parks and other organizations or groups of individuals and in accordance with rules and regulations promulgated by the State Fire Marshal and in conformity with such conditions as may be imposed by the Chief of the Fire Department and included within the permit. Every such display shall be handled by a competent operator to be approved by the Chiefs of the Police and Fire Departments and shall be of such a character, and so located, discharged or fired as, in the opinion of the Chief of the Fire Department, after proper inspection, shall not be hazardous to property or endanger any person or persons. Application for permits shall be made in writing at least 15 days in advance of the date of the display. After such privilege shall have been granted, sales, possessions, use and distribution of fireworks for such display shall be lawful for that purpose only. No permit granted hereunder shall be transferable.

(3) Nothing in this section shall be construed to prohibit any resident wholesaler, dealer, or jobber to sell at wholesale such fireworks as are not herein prohibited, or the sale of any kind of fireworks, provided the same are to be shipped directly out of state, or the use of fireworks by railroads or other transportation agencies for signal purposes or illumination, or the sale or use of blank cartridges for a show or theater or for signal or ceremonial purposes in athletics or sports, or for use by military organizations, or to explosives used for blasting or similar purposes.

(1970 Code, § 10-1)

(B) *Seizure of fireworks sold, held for sale or stored in violation of section.* The Chief of the Fire

Department and any police officer of the city shall seize, take, remove, and destroy, or cause to be seized, taken or removed, and destroyed, at the expense of the owner, all stocks or fireworks or combustibles offered or exposed for sale, stored, or held in violation of division (A) of this section.

(1970 Code, § 10-2)

***Statutory reference:***

*For similar state law, see W.V. Code, § 29-3-29  
and 29-3-30*

*For similar state law definition, see W.V. Code,  
§ 29-3-28*

*For state law as to authority of State Fire  
Marshal to appoint chief of municipal fire  
department an assistant fire marshal, see  
W.V. Code, § 29-3-2*

*Seizure of illegal fireworks, see W.V. Code,  
§ 29-3-31*

**§ 91.02 DUTY OF SPECTATORS AND AUTHORITY OF FIREFIGHTERS AND POLICE AT SCENE OF FIRE.**

(A) Every person present at the scene of a fire shall be subject and obedient to the orders of any police officer or member of the Fire Department there present as to any matter relating to extinguishment of the fire, the removal and protection of property or the maintenance of order; and it shall be unlawful for any person present at the scene of any fire to disobey any such lawful order of any police officer or member of the Fire Department there present.

(B) Firefighters and police officers present at the scene of any fire shall have power to arrest any person for disobedience of the lawful order of a police officer or firefighter given pursuant to this section and to hold the offender in custody until the fire has been extinguished, at which time he shall be taken before an appropriate judicial officer to be dealt with according to law.

(1970 Code, § 10-3)



**§ 91.03 UNAUTHORIZED RIDING UPON FIRE DEPARTMENT APPARATUS PROHIBITED.**

It shall be unlawful for any unauthorized person to ride upon any fire apparatus of the city at any time, and no person other than those assigned to such apparatus shall be authorized to ride thereon while such apparatus is responding to a fire alarm except by authority of the Chief of the Fire Department.  
(1970 Code, § 10-4) Penalty, see § 10.99

**§ 91.04 UNAUTHORIZED USE OR TAMPERING WITH FIRE DEPARTMENT EQUIPMENT.**

No person shall use any fire apparatus or equipment of the city for any private purpose, nor shall any person wilfully and without proper authority remove, take away, tamper with, keep, or conceal any tool, equipment, appliance or other article used in any way by the Fire Department.  
(1970 Code, § 10-5)

**§ 91.05 OUTDOOR FIRES.**

(A) *Permit required.* It shall be unlawful for any person to burn or cause or permit to be burned, on any private or public property outside of any building, any paper, trash, shavings, grass, brush or other combustible material, except in an incinerator, unless a burning permit is first obtained from the Chief of the Fire Department.  
(1970 Code, § 10-6)

(B) *In streets.* It shall be unlawful for any person to burn or cause to be burned any paper, trash, shavings or other combustible material in any street, public square or other public place within the city; provided, that this section shall not apply to workmen, the performance of whose work necessarily requires outdoor fires; and provided further, that any such workmen's fire shall be of such character and so located and controlled as to cause the least possible danger of fire to any building or other structure. When, in the opinion of the Mayor, the Chief of

Police or the Chief or any other officer of the Fire Department, such fire shall be of such character or shall be so located or controlled as to put in danger of fire any building or other structure, the same shall be immediately extinguished, and failure to do so shall constitute an offense against this section.  
(1970 Code, § 10-7)

(C) *On private property.*

(1) It shall be unlawful for any person to burn, or cause or permit to be burned, on any private property outside of any building, any paper, trash, shavings or other combustible material within 25 feet of any building or other structure, except in a furnace, incinerator or container so constructed as to prevent burning paper or embers from being cast upon or blown upon any public or private property, and such furnace, incinerator or container shall be subject to approval by the Chief of the Fire Department.

(2) It shall be unlawful for any person to burn, or cause or permit to be burned, on any private property outside of any building, any paper, trash, shavings or other combustibles without taking due and proper precaution to prevent burning paper or embers from being blown or cast upon any public or private property.

(3) It shall also be unlawful for any person having started to burn or cause to be burned on any private property outside of any building, any paper, trash, shavings or other combustibles to fail to immediately extinguish the fire or to thereafter burn any such material under similar conditions, after having been notified to cease such burning by the Mayor or by the Chief or any other officer of the Police or Fire Departments.  
(1970 Code, § 10-8)

(D) *Burning oil, tar and the like.*

(1) It shall be unlawful for any person to burn or cause to be burned, outside of any building, any rags, tar or other substance which will give off or which is liable to give off obnoxious or offensive smoke, soot or odors.

(2) It shall be unlawful for any person to boil oil, tar or varnish within 20 feet of any building within the city.  
(1970 Code, § 10-9) Penalty, see § 10.99

#### **§ 91.06 SCHOOL FIRE DRILLS; EXITS TO BE UNLOCKED.**

It shall be the duty of the Chief of the Fire Department to require teachers of public, private and parochial schools and educational institutions to have 1 fire drill each month and to keep all doors and exits unlocked during school hours.  
(1970 Code, § 10-10)

#### **§ 91.07 CONFLICTS OF LAW.**

In the event of a conflict between any provision of this subchapter with any statute of the state or any rule, regulation or order of the State Fire Marshal promulgated or given pursuant to statute, the statute, rule, regulation or order shall prevail.  
(1970 Code, § 10-11)

***Statutory reference:***

*Authority of State Fire Marshal to promulgate  
rules and regulations, see W.V. Code,  
§ 29-3-4a*

### ***FIRE PREVENTION CODE***

#### **§ 91.20 ADOPTED; PURPOSE; WHERE FILED AND AVAILABLE TO PUBLIC; HOW CITED.**

There is adopted by the Common Council, for the purpose of prescribing regulations governing conditions hazardous to life and property from fire or explosion, that certain code known as the Fire Prevention Code, Abbreviated Edition, recommended by the American Insurance Association, being particularly the 1965 edition thereof and the whole

thereof, save and except such portions as are hereinafter deleted, modified or amended by this subchapter, of which code not less than 1 copy has been and shall remain filed in the office of the City Clerk; and such Fire Prevention Code, Abbreviated Edition, is hereby incorporated in and made a part of this section as fully as though it were set out herein in full. Such code shall be known and may be cited as the Fire Prevention Code.

(1970 Code, § 10-12)

***Statutory reference:***

*Authority of Common Council to adopt a Fire Prevention Code by reference, see W.V. Code, § 8-11-4(b)*

*Authority of Common Council to regulate the construction of buildings, see W.V. Code, §§ 8-12-13 and 8-12-5(28)*

*Authority to make regulations guarding against danger or damage by fire, see W.V. Code, § 8-12-5(15)*

*Authority to regulate the keeping of gunpowder and other combustibles, see W.V. Code, § 8-12-5(14)*

**§ 91.21 AMENDMENTS.**

Section 16 of the Fire Prevention Code is hereby amended to read as follows:

“Section 16. Service of notices and orders.

“The service of notices and orders for the correction of violations of this code or for other purposes authorized by this code shall be in accordance with the law of this state concerning the service of process in civil actions, and shall, in addition thereto, be posted in a conspicuous place on the premises affected by the notice or order.”

(1970 Code, § 10-13)

***Statutory reference:***

*Similar state law relating to service of orders affecting the repair, demolition, and the like of unsafe buildings, see W.V. Code, § 8-12-16*

## **§ 91.22 DEFINITION.**

Wherever the word “municipality” is used in the Fire Prevention Code, it shall be construed to mean this city.

(1970 Code, § 10-14)

## **§ 91.23 ESTABLISHMENT OF LIMITS OF DISTRICTS IN WHICH STORAGE OF EXPLOSIVES AND BLASTING AGENTS, STORAGE OF FLAMMABLE LIQUIDS IN OUTSIDE ABOVEGROUND TANKS, AND BULK STORAGE OF LIQUEFIED PETROLEUM GASES IS TO BE RESTRICTED.**

The limits referred to in section 53b of the Fire Prevention Code, in which storage of explosives and blasting agents is prohibited, the limits referred to in section 74a of the Fire Prevention Code, in which storage of Class I liquids in outside aboveground tanks is prohibited, and the limits referred to in section 114 of the Fire Prevention Code, in which bulk storage of liquefied petroleum gas is restricted shall be the corporate limits of the city, excepting those areas within the city, if any, in which any such storage is permitted by the zoning ordinance; provided, that the Common Council may, upon application and public hearing, grant exceptions not in conflict with any provisions of this code or the zoning ordinance.

(1970 Code, § 10-15)

## **§ 91.24 DURATION OF PERMITS; PERMIT FEES.**

(A) Permits issued pursuant to the Fire Prevention Code shall be valid for the period specified therein, not more than 1 year; provided, that when a city license or other city permit is required in addition to a permit required by the Fire Prevention Code, such permit may be made valid for an indefinite period concurrent with the period of validity of such city license or other city permit.

(B) The Common Council may by resolution promulgate a schedule of fees to be charged for permits issued pursuant to the Fire Prevention Code, and all such fees shall be payable to the Treasurer.  
(1970 Code, § 10-16)

#### **§ 91.25 ADMINISTRATION AND ENFORCEMENT.**

The provisions of the Fire Prevention Code shall be administered and enforced by the Chief of the Fire Department.  
(1970 Code, § 10-17)

#### **§ 91.26 MODIFICATIONS.**

The Chief of the Fire Department shall have power to modify any of the provisions of the Fire Prevention Code upon application in writing by the owner or lessee of the property affected, or his duly authorized agent, when there are practical difficulties in the way of carrying out the strict letter of the code; provided, that the spirit of the code shall be observed, public safety secured, and substantial justice done. The particulars of such modification when granted or allowed and the decision of the Chief of the Fire Department thereon shall be entered upon the records of the Department and a signed copy shall be furnished the applicant.  
(1970 Code, § 10-18)

#### **§ 91.27 APPEALS; INJUNCTIONS.**

(A) Whenever the Chief of the Fire Department shall disapprove an application or refuse to grant a permit applied for, or when it is claimed that the provisions of the Fire Prevention Code do not apply or that the true intent and meaning of the code have been misconstrued or wrongly interpreted, the applicant may appeal from the decision of the Chief of the Fire Department to the Common Council within 15 days from the date of the decision from which the appeal is taken.

(B) Nothing in this section shall be construed to prevent any person from seeking a temporary injunction restraining the enforcement of any provision of the Fire Prevention Code pending final disposition of the cause in any case wherein such injunctive relief is authorized by state law.

(1970 Code, § 10-19)

***Statutory reference:***

*For similar state law as to restraining  
enforcement of ordinances relating to repair,  
demolition, and the like of unsafe buildings, see  
W.V. Code, § 8-12-16*

**§ 91.28 VIOLATIONS.**

(A) It shall be unlawful for any person to violate any of the provisions of the Fire Prevention Code or fail to comply therewith, or to violate or fail to comply with any order made thereunder, or to build in violation of any detailed statement of specifications or plans submitted and approved thereunder, or any certificate or permit issued thereunder, and from which no appeal has been taken, or to fail to comply with such an order as affirmed or modified by the Common Council or by a court of competent jurisdiction, within the time fixed herein. The imposition of a penalty for any violation shall not excuse the violation or permit it to continue; all such persons shall be required to correct or remedy such violations or defects within a reasonable time; and when not otherwise specified, each 10 days that prohibited conditions are maintained shall constitute a separate offense.

(B) The application of any penalty shall not be held to prevent the enforced removal of prohibited conditions.

(1970 Code, § 10-20)

**§ 91.29 CONFLICTS OF LAW.**

In the event of a conflict between any provision of the Fire Prevention Code and any statute of the state or any rule, regulation or order of the State Fire Marshal promulgated or given pursuant to statute, the

statute, rule, regulation or order shall prevail. Provisions of the Fire Prevention Code which are not in conflict with, but are in addition to, any statute or rule, regulation or order promulgated or given pursuant to statute, shall be deemed as alternative methods or remedies available to the city.  
(1970 Code, § 10-21)

***Statutory reference:***

*For state law as to authority of State Fire  
Marshal to promulgate rules and regulations,  
see W.V. Code, § 29-3-4a*



## CHAPTER 92: ANIMALS

### Section

#### ***General Provisions***

- 92.01 Certain animals and fowl prohibited to be at large; disposition of animals and fowl found at large
- 92.02 Impoundment
- 92.03 Prohibited release from impoundment or custody of officer
- 92.04 Riding or driving of horses, ponies and similar animals for pleasure restricted
- 92.05 Speed and manner of riding or driving of animals on streets
- 92.06 Cruelty to animals
- 92.07 Protection of birds and birds' nests
- 92.08 Disposition of carcasses
- 92.09 Animal warden; animal shelter
- 92.10 Construction of chapter with zoning ordinance
- 92.11 Owners and custodians shall clean up after their pets

#### ***Regulations***

- 92.25 Annual head tax
- 92.26 Duty of owners to declare dogs for assessment
- 92.27 Registration and payment of tax on newly acquired dogs
- 92.28 Registration and payment of tax on newly acquired cats
- 92.29 Privilege tax
- 92.30 Running at large prohibited
- 92.31 Keeping of vicious or dangerous dogs
- 92.32 Keeping of rabid dogs
- 92.33 Vicious, dangerous or rabid dogs declared to be nuisances; procedure for abatement
- 92.34 Confinement of dogs suspected rabid
- 92.35 Establishment by Common Council of quarantine for rabies
- 92.36 Dogs frequently barking or disturbing peace
- 92.99 Penalty

#### ***GENERAL PROVISIONS***

**§ 92.01 CERTAIN ANIMALS AND FOWL PROHIBITED TO BE AT LARGE; DISPOSITION OF ANIMALS AND FOWL FOUND AT LARGE.**

It shall be unlawful for any person to permit any horse, mule, ass, cow, cattle, hog, pig, shoat, goat, poultry or other fowl owned or harbored by him to run at large anywhere within the city; and any such animal or fowl found at large within the city shall be subject to impoundment and disposal as provided in this chapter.

(1970 Code, § 4-1) Penalty, see § 92.99

***Statutory reference:***

*Authority of city to regulate and prohibit the keeping of animals and fowl, see W.V. Code, § 8-12-5(26)*

*Diseases among domestic animals, see W.V. Code, § 19-9-1*

*Domestic stock law, see W.V. Code, § 19-18-1*

**§ 92.02 IMPOUNDMENT.**

Any animal or fowl found at large within the city in violation of § 92.01 may be taken up and impounded at a public pound or other suitable place and shall be kept for a reasonable length of time not less than 5 days and, whenever possible, its owner notified of such happening and notified to redeem it. The city, in addition to fines and penalties that may be imposed, shall have a lien on the animal or fowl in question for the costs of care, feeding and shelter. If, after a reasonable time, the animal or fowl is not redeemed, it may be sold at a public sale to satisfy the lien. If no buyer can be found the animal or fowl in question may be destroyed or given away to some responsible person.

(1970 Code, § 4-2)

***Charter reference:***

*Liens for city assessments, see Charter, § 27*

***Statutory reference:***

*Authority of city to provide for the impounding, sale or destruction of animals or fowl kept contrary to law or found running at large, see W.V. Code, § 8-12-5(26)*

**§ 92.03 PROHIBITED RELEASE FROM IMPOUNDMENT OR CUSTODY OF OFFICER.**

It shall be unlawful for any person to release or cause to be released any dog or other animal, or fowl, impounded or in the custody of an officer pursuant to the provisions of this chapter except by authority of the officer in charge of the pound or having custody of such dog or other animal or fowl.

(1970 Code, § 4-3) Penalty, see § 92.99

**§ 92.04 RIDING OR DRIVING OF HORSES, PONIES AND SIMILAR ANIMALS FOR PLEASURE RESTRICTED.**

(A) *General.* It shall be unlawful to ride a horse, mule, pony, colt or similar animal, or to drive any cart or carriage pulled or propelled by any such animal upon the public streets, highways or parks of this city for recreational, pleasure or play purposes except upon bridal paths or other lanes posted for such purposes by authority of the Common Council; provided, that any person desiring to ride any such

animal or drive any such cart in an organized parade may do so upon permit duly issued by the city.  
(1970 Code, § 4-4)

(B) *Responsibility of parents and guardians for violation by their children or wards under 18.* It shall be unlawful for any parent or guardian to permit his child or ward under the age of 18 to violate the provisions of division (A) of this section.

(1970 Code, § 4-5) Penalty, see § 92.99

#### **§ 92.05 SPEED AND MANNER OF RIDING OR DRIVING OF ANIMALS ON STREETS.**

It shall be unlawful for any person to ride, drive or lead a horse or other animal, whether such animal be hitched to a vehicle or not, upon any street or other place within the city at such speed or in such manner as to endanger life, health or property, or at a speed in excess of that permitted by state law, this code or other ordinance for motor vehicles.

(1970 Code, § 4-6) Penalty, see § 92.99

#### **§ 92.06 CRUELTY TO ANIMALS.**

It shall be unlawful for any person cruelly, unnecessarily or needlessly to beat, torture, mutilate, kill, overload or overdrive any animal or to wilfully deprive any animal harbored by him of necessary sustenance or shelter.

(1970 Code, § 4-7) Penalty, see § 92.99

***Statutory reference:***

*Authority of Common Council to enact this section, see W.V. Code, § 8-12-5(27)*

*Cruelty to animals, cockfighting, and the like, see W.V. Code, § 61-8-19*

#### **§ 92.07 PROTECTION OF BIRDS AND BIRDS' NESTS.**

It shall be unlawful for any person wilfully to kill or injure any bird or to molest any bird's nest within the city, except when necessary to protect property or to abate a public or private nuisance.

(1970 Code, § 4-8) Penalty, see § 92.99

#### **§ 92.08 DISPOSITION OF CARCASSES.**

(A) The owner or keeper of any animal or fowl which may die within the city shall, within 6 hours after learning of the death of such animal or fowl, dispose of the carcass thereof in a lawful and sanitary manner; if any such owner or keeper fails to comply with the provisions of this subsection, the city may so dispose of such carcass and the expense thereby incurred shall be assessed against such owner or keeper, if known, and collected in the manner provided by law for the collection of taxes and special assessments.

(B) Carcasses of animals and fowl found upon city streets, sidewalks and public places and which are not disposed of as provided by division (A) of this section shall be taken up and disposed of by the Maintenance Department or the city garbage collection service in a lawful and sanitary manner.

(1970 Code, § 4-9)

***Statutory reference:***

*Collection by city of taxes and special assessments, see W.V. Code, § 8-13-15*

*Prohibited disposition of animal carcasses, see W.V. Code, §§ 16-9-2 and 16-9-3*

**§ 92.09 ANIMAL WARDEN; ANIMAL SHELTER.**

The Mayor is authorized to employ an animal warden and to prescribe his duties and powers and to provide suitable quarters for keeping and maintaining an animal shelter (if no other animal shelter is available to the city), subject, however, to the availability of funds for such purpose.  
(1970 Code, § 4-10)

**§ 92.10 CONSTRUCTION OF CHAPTER WITH ZONING ORDINANCE.**

Nothing in this chapter shall be construed to authorize any act to be done, condition to exist, or privilege to be exercised which is prohibited by the

zoning ordinance, nor to eliminate the necessity for any permit which is required by the zoning ordinance.  
(1970 Code, § 4-11)

#### **§ 92.11 OWNERS AND CUSTODIANS SHALL CLEAN UP AFTER THEIR PETS.**

No person owning or having custody of any dog, cat or any other animal shall permit the dog, cat or other animal to defecate on any school ground, public street, alley, sidewalk, tree bank, park or any other public grounds or on any private property within the city, other than the premises of the owner or person having custody of the dog, cat or other animal, unless the defecation is removed immediately. In this regard, it shall be unlawful for any owner or custodian to walk a pet on any public grounds or on any private property within the city, other than the premises of the owner or custodian, without having a scooper and disposal materials on their person. Whoever violates this section is guilty of a misdemeanor and for a first offense shall be fined \$50 and \$100 for such subsequent offense.  
(Ord. passed 8-5-2003)

### ***REGULATIONS***

#### **§ 92.25 ANNUAL HEAD TAX.**

(A) *Imposed; amount; when and to whom payable.*

(1) Every person owning, harboring or keeping a dog over the age of 6 months within the city shall pay a yearly city tax of \$2 for each male and spayed female dog and \$3 for each unspayed female dog.

(2) The taxes imposed by this section shall be paid on or before the first day of July of each year to the City Clerk.

(1970 Code, § 4-12)

(B) *Listing of dogs for assessment.* It shall be the duty of the City Clerk, annually, to take and return to the County Assessor, at the time of reporting his annual assessment, an accurate list of the names of all persons who own, keep or harbor any dog, showing the number owned or kept by each person, and also whether such dog be male, spayed female or unspayed female.

(1970 Code, § 4-13)

***Editor's note:***

*See 51 Op. Att'y Gen. 25 (1964) which states that a municipality which has levied a head tax on dogs within the municipality may not collect such tax itself.*

***Statutory reference:***

*Authority of city to regulate or prohibit the keeping of dogs, see W.V. Code, § 8-12-26*  
*Authority of Common Council, by ordinance, to impose animal head tax on dogs, see*

*W.V. Code, § 19-20-2*

*Dogs generally, see W.V. Code, §§ 19-20-1 et seq.*

*Duty of County Assessors and their deputies to collect municipal dog taxes and to pay such collected taxes (less 10% commission for collection) over to municipal treasurers, see*  
*W.V. Code, § 19-20-2*

*Required vaccination of dogs for rabies, see*  
*W.V. Code, §§ 19-20A-1 et seq.*

**§ 92.26 DUTY OF OWNERS TO DECLARE DOGS FOR ASSESSMENT.**

If any person, when required to state the number of dogs owned or kept by him and whether they be male or female, spayed or unspayed, shall refuse to report such information or shall report it incorrectly, he shall be guilty of a misdemeanor.

(1970 Code, § 4-14)

**§ 92.27 REGISTRATION AND PAYMENT OF TAX ON NEWLY ACQUIRED DOGS.**

If any person becomes the owner or possessor of a dog after the time of annual assessment, he shall register such dog with the City Clerk and shall pay the

tax assessed upon such dog within 10 days from the time he obtains possession or ownership of any dog.  
(1970 Code, § 4-15)

## **§ 92.28 REGISTRATION AND PAYMENT OF TAX ON NEWLY ACQUIRED CATS.**

Every person owning, keeping or harboring a cat over the age of 6 months within the corporate limits of the city shall annually, on or within 30 days following July 1, register such cat with the City Clerk.  
(1970 Code, § 4-26) (Am. Ord. passed 11-16-1982)

## **§ 92.29 PRIVILEGE TAX.**

(A) There is levied annually, from January 1, a privilege tax upon the owner of any dog above the age of 8 months. The tax shall be \$1 on each male or spayed female dog and \$2 on each unspayed female dog, which tax shall be payable to the County Assessor as provided by the West Virginia Code. The provisions of this section are not applicable to nonresidents temporarily within the city, nor to dogs brought into the city for the purpose of participating in any dog show, nor to seeing-eye dogs properly trained to assist blind persons when such dogs are actually being used by blind persons for the purpose of aiding them in going from place to place.

(B) Every owner shall be required to provide each dog with a collar to which the license tag, issued by the County Assessor, must be affixed. Dog tags shall not be transferable from 1 dog to another and no refunds shall be made because of death of the dog or the owner's selling the dog or leaving the city before expiration of the license period.

(1970 Code, § 4-16) (Am. Ord. passed 11-6-1979)

### ***Statutory reference:***

*For state law providing that when the head tax and extra charges, if any, are paid, the officer to whom payment is made shall issue a certificate of registration and a registration tag for such dog, see W.V. Code, § 19-20-2*  
*Forms for registration, type of registration tag for dog, and the like, see W.V. Code, § 19-20-4*

## **§ 92.30 RUNNING AT LARGE PROHIBITED.**

(A) No owner shall permit animals or fowl to run at large. Any animal or fowl found running at large shall be impounded. The humane officer shall make a complete registry pertaining to the animal. Not later than 24 hours after the impounding of any dog the owner shall be notified, or, if the owner is unknown, written notice describing the dog and place and time of taking shall be posted at the front door of the courthouse for 5 days.

(B) For the purposes of this section, a completed telephone call to the residence of the owner or the mailing of a postal card or letter, first class, to the owner at the owner's residence addressed as indicated by dog licensing data, shall be deemed notice. The owner of any dog so impounded may reclaim such dog upon payment of the city license tax, if due and unpaid, and all costs and charges incurred for impounding and the maintenance of such dog. The following charges shall be paid:

- (1) For impounding and giving notice on any animal or fowl, \$5;
- (2) For keeping and maintaining any animal or fowl, \$1 per day.

(C) No animal shall be released until the owner, purchaser or donee has obtained a current city license if the dog is to be kept within the limits of the city.

(D) All dogs impounded, unless sooner redeemed by the owner thereof, shall be impounded for a period of 5 days. If, at the expiration of 5 days from the date of notice to the owner or the posting of notice, such dog has not been redeemed, it may be humanely destroyed, sold or otherwise disposed of.  
(1970 Code, § 4-17) (Am. Ord. passed 11-6-1979)

***Statutory reference:***

*Authority of Common Council to provide for the  
impounding, sale or destruction of dogs kept  
contrary to law or found running at large, see  
W.V. Code, § 8-12-5(26)*



### **§ 92.31 KEEPING OF VICIOUS OR DANGEROUS DOGS.**

It shall be unlawful for any person to own, keep or harbor any dog known by him or which, in the exercise of reasonable diligence, he should know to be vicious, dangerous or in the habit of biting or attacking persons. (1970 Code, § 4-18) Penalty, see § 92.99

### **§ 92.32 KEEPING OF RABID DOGS.**

It shall be unlawful for any person to own, keep or harbor any dog known by him or which, in the exercise of reasonable diligence, he should know to be suffering with rabies. (1970 Code, § 4-19) Penalty, see § 92.99

### **§ 92.33 VICIOUS, DANGEROUS OR RABID DOGS DECLARED TO BE NUISANCES; PROCEDURE FOR ABATEMENT.**

Vicious, dangerous or rabid dogs or dogs in the habit of attacking or biting persons are declared to be public nuisances and menaces to public safety. When a law enforcement officer reasonably believes the immediate public safety is imperiled by such a dog, he may summarily destroy such dog; otherwise, a hearing may be held before the Police Court, upon complaint, to determine whether a dog is vicious, dangerous or rabid or in the habit of attacking or biting persons. If such a finding is made, the court may order the dog to be destroyed. (1970 Code, § 4-20)

#### ***Statutory reference:***

*Authority of Common Council to cause to be abated anything which, in its opinion, is a public nuisance, see W.V. Code, § 8-12-5(23)*

### **§ 92.34 CONFINEMENT OF DOGS SUSPECTED RABID.**

When, upon reasonable belief that a dog may be suffering with rabies or has come in contact with

another animal suffering therefrom, the Chief of Police may order such dog confined for such period of time as may be deemed sufficient for satisfactory observance, and if such dog is not so confined as ordered such dog may be killed as a public nuisance and menace to public safety.  
(1970 Code, § 4-21)

#### **§ 92.35 ESTABLISHMENT BY COMMON COUNCIL OF QUARANTINE FOR RABIES.**

The Common Council shall have the power to establish by resolution a general or special quarantine whenever, in its opinion, it is for the best interest of public safety or when it may appear that any dog has become vicious or is suffering with rabies infection or has been bitten by any other animal so suffering or for other similar reasons.  
(1970 Code, § 4-22)

#### **§ 92.36 DOGS FREQUENTLY BARKING OR DISTURBING PEACE.**

(A) It shall be unlawful for any person to keep, own, harbor, conceal, board, house or maintain any dog or dogs which frequently or constantly bark and thereby causes a disturbance of the peace and which constitutes a nuisance to other persons.

(B) The following procedures shall apply with regard to violations or reported violations of the acts proscribed in division (A) of this section:

- (1) Upon receipt by the Police Department of a first complaint the offender will be given a verbal warning;
- (2) Upon receipt by the Police Department of a second complaint within a period of 1 year thereafter, a citation (commonly known as a “ticket”) will be promptly issued by the Ravenswood Police Department and delivered to the offender;
- (3) Upon receipt by the Police Department of a third complaint within a 1 year period from the

date of the receipt of the second complaint, then the complainant and/or Ravenswood Police Department may obtain a warrant from the Municipal Judge against the offender.  
(Am. Ord. passed 4-16-1996)

**§ 92.99 PENALTY.**

Whoever violates any provisions of this chapter, or who fails or refuses to comply with any notices issued by any officer or agent of the city with reference to the enforcement of the provisions of this chapter, for which no penalty is provided, shall be fined not more than \$100 for each offense. A separate offense shall be deemed committed each day during or on which a violation occurs or continues.  
(1970 Code, § 4-23) (Am. Ord. passed 11-6-1979)

## CHAPTER 93: STREETS AND SIDEWALKS

### Section

#### ***General Provisions***

- 93.01 Grades; laying out, construction and repair
- 93.02 Obstructions generally; authority of Police to remove at owner's expense
- 93.03 Trees and shrubbery overhanging streets and sidewalks
- 93.04 Duty of property owners and occupants
- 93.05 Depositing glass, scrap iron, nails and the like in streets
- 93.06 Games and sports prohibited on streets and sidewalks; exception
- 93.07 Vehicles and animals prohibited on sidewalks; exceptions
- 93.08 Repair of vehicles on public streets
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- 93.10 Loud or disturbing noises prohibited
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#### ***Paving of Sidewalks***

- 93.25 Specifications and standards for laying out, construction and repair
- 93.26 Duty of property owners to construct sidewalks, upon notice, following curb construction by city
- 93.27 Reimbursement by city to property owners for construction work
- 93.28 Maintenance and repair as duty of adjacent property owners
- 93.29 Notice to repair
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#### ***Excavations***

- 93.45 Permit required
- 93.46 Refund or forfeiture of deposit
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- 93.49 Effect of noncompliance or failure to complete work
- 93.50 Applicability

### ***City Maintenance and Improvements***

- 93.65 Special charge for street maintenance and improvements
- 93.66 Collection of charge
- 93.67 Exemptions to charge; application
- 93.68 Requirements for amendment

***Charter reference:***

*Liens created for assessments, see Charter, § 27;*  
*Powers of Common Council relating to streets, sidewalks and public places, see Charter, § 20*

***Statutory reference:***

*Authority of Common Council relating to streets, sidewalks and public places, see W.V. Code, § 8-12-5(1) through (5)*  
*Authority to make assessments to improve streets and sidewalks, see W.V. Code, § 8-17-1*

## ***GENERAL PROVISIONS***

### **§ 93.01 GRADES; LAYING OUT, CONSTRUCTION AND REPAIR.**

The grades of all streets, sidewalks and ways within the city, public and private, shall be as determined by the City Engineer, who shall maintain complete records thereof on file in his office. The laying out, construction and repair of public streets and ways and sidewalks constructed at city expense shall conform to specifications and standards prescribed by the City Engineer or the City Maintenance Supervisor and approved by the Common Council.

(1970 Code, § 18-1)

***Statutory reference:***

*State law requiring action of Common Council laying out or vacating a public street or way be by ordinance, see W.V. Code, § 8-11-3*

### **§ 93.02 OBSTRUCTIONS GENERALLY; AUTHORITY OF POLICE TO REMOVE AT OWNER'S EXPENSE.**

(A) It shall be unlawful for any person to obstruct the free use of any sidewalk, street or public place within the city by placing or allowing to be placed thereon or therein any object.

(B) In addition to any penalty imposed for a violation of this section, the Chief of Police or any police officer shall take into his possession and custody any object so placed in or on any street, sidewalk or public place as to constitute a violation of this section and the owner thereof shall be entitled to reclaim such object only upon payment of the costs incurred by the city in removing the same from its public street, sidewalk or other place.

(1970 Code, § 18-2) Penalty, see § 10.99

### **§ 93.03 TREES AND SHRUBBERY OVERHANGING STREETS AND SIDEWALKS.**

It shall be unlawful for the owner or occupant of any property, or the agent or employee of any such owner or occupant of property abutting upon any public street, sidewalk or other public place within the city, to permit the growth, of any tree or shrubbery, or the existence of any tree or shrubbery, which overhangs any public street, sidewalk or other public place at a lesser distance from the surface thereof than 8 feet, if such public way be a sidewalk, and 14 feet if such public way be a street or other public way.

(1970 Code, § 18-3) Penalty, see § 10.99

### **§ 93.04 DUTY OF PROPERTY OWNERS AND OCCUPANTS.**

(A) *To remove snow and ice from sidewalks.* No person shall permit the accumulation of snow or ice upon the sidewalk adjacent to any property owned or occupied by him within the city, but shall remove the same within a reasonable time not later than 9:00 a.m. and 3:00 p.m. each day that snow or ice accumulates thereon.

(1970 Code, § 18-4)

(B) *To maintain streets, sidewalks and abutting grounds free of trash.* No person shall permit the accumulation of trash, debris or anything unsanitary upon the street adjacent to any property owned or occupied by him, nor shall any person permit any such accumulation upon or within 5 feet of the sidewalk upon or adjacent to any property owned or occupied by him, but shall remove any such accumulation within a reasonable time not longer than 24 hours.

(1970 Code, § 18-5)

(C) *Recourse of city upon violation.* Upon the accumulation of snow or ice upon any sidewalk in violation of division (A) of this section, or of trash, debris or unsanitary matter upon a sidewalk or ground within 5 feet of a sidewalk in violation of division (B)

of this section; and upon the occurrence of growth overhanging a street, sidewalk or other public place in violation of § 93.03, the appropriate city officer may forthwith proceed to remove such snow, ice, trash, debris or unsanitary matter, or to trim such tree or shrubbery, and the cost thereby incurred by the city shall constitute a debt of the owner of the property involved, which shall be collectible in the same manner as taxes and shall constitute a lien upon such property.

(1970 Code, § 18-6)

***Charter reference:***

*Liens for assessments, see Charter, § 27*

**§ 93.05 DEPOSITING GLASS, SCRAP IRON, NAILS AND THE LIKE IN STREETS.**

It shall be unlawful for any person to throw, deposit and permit to remain on any street, sidewalk, alley, lane, square or other public place within the city any glass, scrap iron, nails, tacks, wire, tin cans, lumber, boards, tree limbs, paper, dead animals, garbage, trash or litter of any kind and any offensive matter or anything likely to injure the feet of persons or animals or the tires of vehicles.

(1970 Code, § 18-7) Penalty, see § 10.99

**§ 93.06 GAMES AND SPORTS PROHIBITED ON STREETS AND SIDEWALKS; EXCEPTION.**

It shall be unlawful for any minor or adult person to engage in any game or sport upon any street or sidewalk of the city other than those which have been designated as play streets by authority of the Common Council.

(1970 Code, § 18-8) Penalty, see § 10.99

**§ 93.07 VEHICLES AND ANIMALS PROHIBITED ON SIDEWALKS; EXCEPTIONS.**

It shall be unlawful for any person to propel a vehicle or to ride, drive or lead an animal upon any



sidewalk within the city; provided, that this section shall not apply to wheelchairs, perambulators or other vehicles for the conveyance of persons who require them, nor shall it apply to bicycles or to play vehicles when authorized elsewhere in this code to be ridden upon sidewalks, nor shall it apply to dogs or cats.  
(1970 Code, § 18-9) Penalty, see § 10.99

#### **§ 93.08 REPAIR OF VEHICLES ON PUBLIC STREETS.**

No person shall make, perform or cause to be made or performed any repairs, adjustments, parts replacement, corrections or maintenance to or upon any motor vehicle upon the public streets of the city; provided, that this section shall not be construed to prohibit bona fide emergency repairs, adjustments, parts replacement or corrections to a motor vehicle whenever such vehicle could not first be reasonably moved from the city streets.  
(1970 Code, § 18-9.1)

#### **§ 93.09 DRAINING, SPILLING, POURING AND THE LIKE OF GASOLINE, OIL, GREASE ON PUBLIC STREETS.**

It shall be unlawful for any person to drain, spill, pour or allow to pour or be spilled or drained any gasoline, oil, grease or any other corrosive or deleterious substance or fluid on any public paved, asphalt or asphalt macadam street or alley in the city.  
(1970 Code, § 18-9.2) Penalty, see § 10.99

#### **§ 93.10 LOUD OR DISTURBING NOISES PROHIBITED.**

No person shall make, continue or cause to be made by the use of any horn, bell, radio or loud speaker or by the operation of any instrument or device, any unreasonably loud, disturbing and unnecessary noise of such a character, intensity and duration as to disturb the peace and quiet of the community or to be detrimental to the life or health of any individual. All violations of this section shall be

punishable under § 10.99, excepting only that there shall be no jail sentence for any such violation.  
(Ord. passed 5-4-1999)

#### **§ 93.11 ACCUMULATION OF GRASS, WEEDS AND THE LIKE PROHIBITED.**

It shall be unlawful for any resident, landowner and/or agent to allow grass, weeds, leaves, foreign growth and grass clippings to accumulate on the adjacent public paved, asphalt or asphalt macadam street, alley or sidewalk for more than 24 consecutive hours. All violations of this section shall be punishable under § 10.99, excepting only that there shall be no jail sentence for any such violation.  
(Ord. passed 10-17-2000) Penalty, see § 10.99

### ***PAVING OF SIDEWALKS***

#### **§ 93.25 SPECIFICATIONS AND STANDARDS FOR LAYING OUT, CONSTRUCTION AND REPAIR.**

The laying out, construction and repair of sidewalks, as required by this subchapter, shall conform to specifications and standards prescribed by the City Engineer and approved by the Common Council.  
(1970 Code, § 18-10)

***Charter reference:***

*Laying out, construction and repair of sidewalks  
and the regulation of use thereof, repairs and  
the like, see Charter, § 20*

***Statutory reference:***

*Authority of city relating to sidewalks, see  
W.V. Code, § 8-12-5(1) to (5)  
Sidewalks generally, see W.V. Code, § 8-18-1*

**§ 93.26 DUTY OF PROPERTY OWNERS TO CONSTRUCT SIDEWALKS, UPON NOTICE, FOLLOWING CURB CONSTRUCTION BY CITY.**

The owner of any real property next adjacent to a sidewalk or footway, when curbs shall be constructed by the city adjacent to such sidewalk or footway, shall be required to pave such sidewalk or footway with well-laid bricks, concrete or other material, within a reasonable time not more than 60 days from the date of service of notice so to do given by the City Clerk pursuant to ordinance, resolution or order of the Common Council. The notice given by the City Clerk shall specify whether concrete, bricks or other material shall be used in paving the surface of such sidewalk or footway.

(1970 Code, § 18-11)

**§ 93.27 REIMBURSEMENT BY CITY TO PROPERTY OWNERS FOR CONSTRUCTION WORK.**

The Common Council may, by ordinance, resolution or order, establish a schedule, based upon linear feet or other equitable basis, upon which the city shall partially reimburse property owners for laying out and constructing sidewalks as required of them by this subchapter, subject to availability of funds for such purpose.

(1970 Code, § 18-12)

**§ 93.28 MAINTENANCE AND REPAIR AS DUTY OF ADJACENT PROPERTY OWNERS.**

All sidewalks and footways adjacent to curbs constructed by the city shall be maintained in good and safe condition by the owners of the real property adjacent thereto, and such owners shall from time to time make all repairs necessary to assure that the provisions of this section are complied with.

(1970 Code, § 18-13)

### **§ 93.29 NOTICE TO REPAIR.**

When, upon a finding by the City Engineer or the City Maintenance Supervisor that any sidewalk subject to the provisions of this subchapter is unsafe or in a condition of disrepair, he shall promptly cause to be given written notice to the owner of the real property adjacent to such sidewalk. Such notice shall set forth the findings of the City Engineer or City Maintenance Supervisor and shall direct the property owner to take specified action therein prescribed by such officer to remedy the situation, within a reasonable time not more than 10 days from the service of such notice.

(1970 Code, § 18-14)

### **§ 93.30 AUTHORITY OF CITY TO DO WORK AT PROPERTY OWNER'S EXPENSE WHEN LATTER FAILS TO COMPLY WITH NOTICE; LIEN CREATED.**

Should any property owner fail to comply with any notice given him pursuant to any provision of this subchapter, the city may proceed to carry out the requirements of such notice, and the costs thereby incurred by the city for material, labor and other necessities shall become a lien upon the property involved and shall be collected in the same manner as taxes are collected.

(1970 Code, § 18-15)

#### ***Charter reference:***

*Creation of lien for assessments made by city, see*

*Charter, § 27*

#### ***Statutory reference:***

*Creation of lien for sidewalk construction and repairs and necessity to record such lien, see*

*W.V. Code, § 8-18-10*

## ***EXCAVATIONS***

### **§ 93.45 PERMIT REQUIRED.**

(A) *Fee.* No person shall excavate, dig, cut or otherwise make any opening, hole, ditch or trench in

any street, sidewalk, or other public way or place in the city without first obtaining a permit to do such work from the City Maintenance Supervisor, the fee for which shall be \$1, payable to the City Clerk. (1970 Code, § 18-16)

(B) *Deposit prerequisite to issuance.* No permit required by this subchapter shall be issued until the person applying for such permit shall deposit such sum, not less than \$25, as shall be sufficient, in the opinion of the City Maintenance Supervisor, to guarantee that the work will be completed within a reasonable time to be stated in the permit, and that the pavement or surface of the street, sidewalk, or other public way or place will be replaced as provided by this subchapter, subject to the approval, upon inspection, by the City Maintenance Supervisor. (1970 Code, § 18-17)

***Statutory reference:***

*Authority of city to provide for the excavation of streets, sidewalks and public places belonging to the city, see W.V. Code, § 8-12-5(2)*

**§ 93.46 REFUND OR FORFEITURE OF DEPOSIT.**

Upon completion of the work and upon the approval thereof by the City Maintenance Supervisor, the deposit required by this subchapter shall be refunded to the person making it. If the work is not completed in compliance with the terms of this subchapter, such deposit shall be forfeited to the city and shall be paid into the General Fund of the city.  
(1970 Code, § 18-18)

**§ 93.47 REPLACING SURFACE OR PAVEMENT.**

(A) In replacing the surface or pavement of streets, alleys or other public ways or places, except sidewalks, the subsurface soil shall be thoroughly tamped. In the event the surface is of concrete construction, 8 inches of concrete shall be laid the full length of the opening, hole, ditch or trench, for the full width of the pavement. If the surface is of asphalt

or black-top construction, the stone base shall be replaced at the same depth as the balance of the surface and the stone covered with the same material that is used on the balance thereof. If the surface is not paved, it shall be restored with the same kind of material as the original surface; and, in any case, the surface shall be replaced in as good condition as it was before the excavation was made.

(B) In replacing the surface or paving of sidewalks, the same procedure as above prescribed shall be followed; except, that 5 inches of concrete shall be required therefor; and, except, that when an excavation, opening or hole is made in a square of pavement, the entire square, to the nearest edging mark, if there be any, shall be replaced.

(1970 Code, § 18-19)

#### **§ 93.48 BARRICADES, WARNING SIGNS AND THE LIKE REQUIRED; CITY TO BE INDEMNIFIED AS CONDITION OF PERMIT.**

While any work regulated by this subchapter is in progress, proper barricades and warning notices or signs shall be placed by day, and flares or lanterns by night, for the purpose of giving notice of the work to all persons who may use or travel such streets, sidewalks, public ways or places; the person doing the work, together with the landowner for whose benefit the work is done, shall, as a condition to the issuance of the permit therefor, save harmless the city from all liability or loss in the event of damage to person or property, including city officers and employees and city property, which may result from such work.

(1970 Code, § 18-20)

#### **§ 93.49 EFFECT OF NONCOMPLIANCE OR FAILURE TO COMPLETE WORK.**

If any work regulated by this subchapter is begun without complying with the terms of this subchapter and not completed, or if begun by securing a permit and not completed, the City Clerk may give to the person doing such work, or to the landowner

benefitting therefrom, or either of them, 10 days notice, in writing, to complete such work to the satisfaction of the City Maintenance Supervisor within a stated time. If the work is not completed within such stated time, the city may complete the work at the expense of such person or the landowner benefitting therefrom.  
(1970 Code, § 18-21)

#### **§ 93.50 APPLICABILITY.**

(A) *General.* The provisions of this subchapter shall apply to all paved or improved portions of all streets, sidewalks, and other public ways and places within the city, whether such pavement or improvement was done at public or private expense. (1970 Code, § 18-22)

(B) *To franchised public utilities.* The deposit mentioned in § 93.45 shall not be required of any public utility, operating within the city pursuant to a franchise granted by the city.  
(1970 Code, § 18-23)

### ***CITY MAINTENANCE AND IMPROVEMENTS***

#### **§ 93.65 SPECIAL CHARGE FOR STREET MAINTENANCE AND IMPROVEMENTS.**

(A) The Common Council finds that the street maintenance and improvement services to city streets afforded and provided the people of this city are essential municipal services and that the general revenues of the city are not sufficient for the purpose of providing adequate city street maintenance and improvement. Therefore, in order to provide for the continuance and furtherance of such maintenance and improvements to and for the people of this city, there is imposed upon, and shall be collected from, the users of such service a service charge at the rate of \$2 per month beginning July 1, 1980. The term ***USERS*** within the meaning of this section shall include owners

of real or personal property which is subject to taxation by the city and persons having a place of business within the city which is subject to any city license.

(B) The special service charge imposed by this section shall be in addition to all other taxes and license fees imposed by the city or by the state.

(1970 Code, § 18-24) (Am. Ord. passed 6-17-1980)

***Statutory reference:***

*Authorizing city to enact §§ 93.65 et seq., see*

*W.V. Code, § 8-13-13*

**§ 93.66 COLLECTION OF CHARGE.**

(A) It shall be the duty of the Treasurer to collect the special service charges imposed; all such special service charges are declared to be debts owing to the city, for which the debtor shall be personally liable, and the Treasurer may enforce this liability by appropriate civil action in any court of competent jurisdiction and is vested with the same rights to distrain therefor as is vested in the Sheriff of Jackson County for the collection of taxes.

(B) The Treasurer is authorized to make reasonable regulations or to amend existing reasonable regulations, not inconsistent with state law, this code or other ordinance, for the collection of the special service charges for police protection, subject to approval of such regulations by ordinance of the Common Council prior to such regulations becoming effective.

(1970 Code, § 18-25) (Am. Ord. passed 6-17-1980)

**§ 93.67 EXEMPTIONS TO CHARGE; APPLICATION.**

(A) The foregoing special municipal service charge shall not be charged or imposed or further charged and imposed upon or against any person who has attained the age of 65 years from and after the time that such person has made written verified declaration of age and application for exemption and filed same with the city.



(B) This exemption shall apply only to those persons who are either:

(1) Living alone; or

(2) The principal provider, wage earner or source of income for the family or dependents with whom he or she resides in a single family residence.  
(1970 Code, § 18-26) (Am. Ord. passed 6-17-1980)

#### **§ 93.68 REQUIREMENTS FOR AMENDMENT.**

Before this subchapter is amended in any respect, notice of intent to amend shall be published in conformity with the provisions of W.V. Code, § 8-13-13, and any 30% of the qualified voters of the city shall have the right to protest such proposed amendment as provided in W.V. Code, § 8-13-13.  
(1970 Code, § 18-27) (Am. Ord. passed 6-17-1980)

## **CHAPTER 94: PARADES, DEMONSTRATIONS AND PICKETING**

### Section

#### ***Picketing***

- 94.01 Purpose
- 94.02 Conditions under which picketing permitted; definition; unlawful picketing
- 94.03 Prohibited conduct at scene of picketing
- 94.04 Unlawful assemblies; dispersal of unlawful assemblies and arrest of those not dispersing

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- 94.30 Dispersal of riots, routs and unlawful assemblies; arrest of persons who disobey command to disperse
- 94.31 Molesting paraders and demonstrators prohibited

## ***PICKETING***

### **§ 94.01 PURPOSE.**

It is the purpose of this chapter to protect persons who are picketing in a lawful manner against interference by those who might attempt to intimidate them by violence or by the use of insulting or threatening words or gestures and to preserve the public peace and tranquility at any place where picketing is taking place. It is also the purpose of this chapter to protect persons who are not picketing and who are acting in a lawful manner against interference by picketers or supporters of picketers who might intimidate them by violence or by the use of insulting or threatening words or gestures.

(1970 Code, § 14-1)

#### ***Statutory reference:***

*Authority of Common Council to regulate the use of streets, sidewalks and public places and to protect and promote the public safety, health, welfare and good order, see W.V. Code, § 8-12-5(4) and (44)*

*Authority of municipalities to protect persons and property and to preserve law and order, see W.V. Code, §§ 8-12-5(44) and 8-14-1*

### **§ 94.02 CONDITIONS UNDER WHICH PICKETING PERMITTED; DEFINITION; UNLAWFUL PICKETING.**

(A) Peaceful picketing in the furtherance of a lawful purpose shall be permitted in the city when it is done under the following conditions:

(1) Picketing may be conducted only upon sidewalks and areas reserved for pedestrian movement and may not be conducted upon the portion of a street used primarily for vehicular traffic;

(2) Not more than 10 pickets promoting the same objective shall be permitted to use 1 of the 2 sidewalks within any city block at any one time;

(3) Pickets may carry placards or signs, not exceeding 2 feet by 2 feet in dimension, which promote the objective for which the picketing is done; provided, that no word, language or illustration thereon is scurrilous or obscene in nature or is calculated to arouse public hatred or anger or tends to incite any breach of the public peace;

(4) Pickets shall walk in single file and not abreast and shall not be closer together than 10 feet, except in passing one another;

(5) If pickets promoting different objectives desire to use the same sidewalk for picketing and such use would result in the presence of more than 10 pickets thereon at the same time, the first 10 of such pickets shall take precedence over the others, who may apply to the Chief of Police to allot time to each group of pickets for the use of such sidewalk on an equitable basis;

(6) The term **BLOCK** as used in this chapter shall mean that portion of a street lying between street intersections.

(B) Picketing done contrary to the provisions of this chapter shall be unlawful.  
(1970 Code, § 14-2)

### **§ 94.03 PROHIBITED CONDUCT AT SCENE OF PICKETING.**

(A) It shall be unlawful for any person to interfere physically with any picket or other person lawfully present at the scene of any picketing or to address profane, indecent, abusive or threatening

language or gestures to or at any picket or other person so present or to incite any breach of the public peace.

(B) It shall be unlawful for any person to prevent or attempt to prevent, by the use of force or threat, any other person from lawfully entering or leaving at will any factory, store, place of business or other premises within the city.

(1970 Code, § 14-3) Penalty, see § 10.99

#### **§ 94.04 UNLAWFUL ASSEMBLIES; DISPERSAL OF UNLAWFUL ASSEMBLIES AND ARREST OF THOSE NOT DISPERSING.**

(A) All assemblages of persons upon the streets, sidewalks or public places in the city, or upon privately owned property without the consent of the owner or person in charge thereof, for the purpose of preventing those having a lawful right so to do from entering or leaving at will any factory, store, place of business or other premises are declared to be unlawful assemblies and are prohibited, and they shall be subject to dispersal by the city police and other law enforcement officers.

(B) All assemblages of persons upon the streets, sidewalks or public places in the city, or upon privately owned property without the consent of the owner or person in charge thereof, for the purpose of intimidating pickets who are lawfully engaged in picketing are declared to be unlawful assemblies and are prohibited, and they shall be subject to dispersal by the city police and other law enforcement officers.

(C) All persons constituting an unlawful assembly as provided in this section shall, upon command of any law enforcement officer, forthwith disperse and peacefully leave the scene of such assembly, and those who fail to comply with such command to disperse shall be subject to immediate arrest.

(1970 Code, § 14-4)

## ***PARADES AND DEMONSTRATIONS***

### **§ 94.20 FINDINGS OF COMMON COUNCIL.**

The Common Council finds that it is necessary for the good government and the peace, safety, health and welfare of the city and the inhabitants thereof, as well as to maintain law and order, to prohibit parades and demonstrations within the city unless a city permit to use the city streets, sidewalks and public places for such purposes has first been granted.

(1970 Code, § 14-5)

### **§ 94.21 PERMIT REQUIRED; EXCEPTIONS.**

It shall be unlawful for any person to sponsor, organize, direct, lead or participate in any parade or demonstration upon any street or sidewalk or upon or in any public place within the city unless a city permit has been granted to hold such parade or demonstration; provided, that this chapter shall not apply to parades, processions or convoys of any component of the armed forces of the United States or this state or to any governmental organization, to any funeral procession, or to any circus parade authorized pursuant to § 111.06.

(1970 Code, § 14-6) Penalty, see § 10.99

#### ***Statutory reference:***

*Authority of Common Council to regulate the use of streets, sidewalks and public places and to protect and promote the public safety, health, welfare and good order, see W.V. Code, § 8-12-5(4) and (44)*

*Authority of municipalities to protect persons and property and to preserve law and order, see W.V. Code, §§ 8-12-5(44) and 8-14-1*

### **§ 94.22 APPLICATION FOR PERMIT.**

(A) Any person desiring to sponsor, organize, direct or lead a parade or demonstration upon any street or sidewalk or upon or in any public place within the city shall file an application for a parade or demonstration permit with the City Clerk.

(B) In such application shall be set forth the following:

(1) The date and hour for the assembling of the participants in such parade or demonstration and the expected duration thereof;

(2) The streets, sidewalks and public places over and upon which the parade or demonstration is to take place;

(3) Whether the parade or demonstration is to be conducted on foot or with animals or vehicles, or any combination thereof, and the number of persons, vehicles and animals expected to participate;

(4) The purpose of the parade or demonstration;

(5) The names and addresses of the actual sponsors of such parade or demonstration, and the organization or organizations, if any, of which the expected participants are members;

(6) The name and address of the person who shall be in charge of such parade or demonstration and who shall be responsible for the conduct thereof and for compliance with all applicable provisions of law, this code and other ordinances by participants in such parade or demonstration;

(7) Such other information as the Common Council may require.  
(1970 Code, § 14-7)

#### **§ 94.23 REQUIRED SIGNATURE ON APPLICATION FOR PERMIT.**

Each application for a parade or demonstration permit shall be signed by at least 1 person, who shall be the person named in the application as the one who shall be in charge of such parade or demonstration and who shall be responsible for the conduct thereof and for compliance with all applicable provisions of law, this code and other ordinances by participants in such parade or demonstration.  
(1970 Code, § 14-8)

#### **§ 94.24 CONSIDERATION OF APPLICATION; GRANTING OR DENIAL.**

Upon the filing of a completed and properly signed application for a parade or demonstration permit, the City Clerk shall transmit copies thereof promptly to all members of the Common Council. The Common Council, at its next meeting, shall consider such application and take action thereon. If the Common Council considers that such parade or demonstration would not be detrimental to the good government or the peace, safety, health or welfare of the city or the inhabitants thereof and would not constitute a threat to the maintenance of law and order or cause unacceptable traffic conditions within the city, the permit applied for shall be granted. If, however, the Common Council, in the exercise of sound discretion and in view of circumstances then existing, considers that the holding of such parade or demonstration would be detrimental to the good government or the peace, safety, health or welfare of the city or the inhabitants thereof, or would constitute a threat to the maintenance of law and order or would cause unacceptable traffic conditions within the city, the permit shall be denied.  
(1970 Code, § 14-9)

#### **§ 94.25 CONDITIONS OF PERMIT AND REQUIRED COMPLIANCE THEREWITH.**

(A) In granting a permit pursuant to this chapter the Common Council may include therein such prohibitions, conditions, restrictions and limitations as it may consider appropriate, under the general police powers of the city, to safeguard the good government and the peace, safety, health and welfare of the city and the inhabitants thereof, as well as to maintain law and order and acceptable traffic conditions within the city, and

it shall be unlawful for any person covered by the permit to violate or fail to comply with any such prohibition, condition, restriction or limitation.

(B) The provisions of this chapter shall be deemed to be a part of each parade or demonstration permit, whether or not so stated in the permit.  
(1970 Code, § 14-10)

#### **§ 94.26 AUTHORITY OF COMMON COUNCIL TO REQUIRE POSTING OF BOND.**

Prior to the granting of a permit pursuant to this chapter, and as a condition precedent for the granting of such permit, the Common Council may require that the person named in the application as the one to be responsible for the conduct of the parade or demonstration shall give bond to the city, in such amount and with such surety as the Common Council may consider necessary, conditioned upon the full satisfaction of all judgements and decrees which may result by reason of any negligent or unlawful act or omission of any person participating in such parade or demonstration and included within the permit; with the further condition that he will save the city harmless from all claims and demands whatever which may arise by reason of such parade or demonstration; and with the further condition that he will pay the city for all extra expenses incurred for clearing the streets, sidewalks and public places of litter and waste matter resulting from such parade or demonstration and for the cleaning and repair of public property which may be soiled or damaged by acts of vandalism during the period of organizing and holding the parade or demonstration and within 6 hours thereafter when such acts of vandalism are reasonably attributable to the holding of such parade or demonstration.  
(1970 Code, § 14-11)

#### **§ 94.27 CERTAIN FOREIGN FLAGS AND EMBLEMS PROHIBITED.**

No person parading or demonstrating pursuant to a permit issued under the provisions of this chapter shall carry or display the flag or emblem of any foreign state not recognized by the United States or which is engaged in hostilities against the armed forces of the United States.  
(1970 Code, § 14-12)

#### **§ 94.28 WEAPONS; VICIOUS ANIMALS.**

(A) No person parading or demonstrating pursuant to a permit issued under the provisions of



this chapter shall carry any dangerous weapon; provided, that the Common Council may, in the exercise of sound discretion, include in such permit such variations from this subsection as it may consider appropriate for members of color guards, drill teams, lodges and other persons by whom the display of weapons upon the occasion of such parade or demonstration would not arouse anxiety on the part of spectators or constitute a threat to the maintenance of law and order and the preservation of the public peace.

(B) No person parading or demonstrating pursuant to a permit issued under the provisions of this chapter shall cause or suffer to be caused any vicious or apparently vicious animal to participate in or accompany such parade or demonstration; provided, that the Common Council may, in the exercise of sound discretion, include in such permit such variations from this subsection as it may consider appropriate for circus parades and similar events.  
(1970 Code, § 14-13)

#### **§ 94.29 SIGNS, PENNANTS, STICKERS AND THE LIKE.**

No person parading or demonstrating pursuant to a permit issued under the provisions of this chapter shall carry or display any sign, pennant, sticker or other device which contains any scurrilous or obscene words, language or illustrations calculated to arouse public hatred or anger or tending to incite any breach of the public peace. No sign shall exceed a width of 24 inches or a height of 36 inches.  
(1970 Code, § 14-14)

#### **§ 94.30 DISPERSAL OF RIOTS, ROUTS AND UNLAWFUL ASSEMBLIES; ARREST OF PERSONS WHO DISOBEY COMMAND TO DISPERSE.**

Parades and demonstrations held pursuant to a permit issued under the provisions of this chapter which become, or which reasonably appear to present an imminent threat to becoming, a riot, rout or

unlawful assembly shall be dispersed forthwith by the city police or by any law enforcement officer who may be present, and persons who are commanded to disperse by any law enforcement officer shall promptly obey such command and peacefully disengage themselves from such parade or demonstration and leave the scene thereof, and persons who fail to obey such command shall be subject to immediate arrest.  
(1970 Code, § 14-15)

#### **§ 94.31 MOLESTING PARADERS AND DEMONSTRATORS PROHIBITED.**

No person shall hinder, molest, insult or harass any parader or demonstrator lawfully parading or demonstrating pursuant to a permit issued under the provisions of this chapter.  
(1970 Code, § 14-15)

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### **TITLE XI: BUSINESS REGULATIONS**

#### **Chapter**

#### **110. GENERAL LICENSING PROVISIONS**

#### **111. BUSINESS REGULATIONS**

#### **112. BUSINESS AND OCCUPATION TAX**

#### **113. ALCOHOLIC BEVERAGES**



## CHAPTER 110: GENERAL LICENSING PROVISIONS

### Section

- 110.01 Licenses required and license taxes levied
- 110.02 Application for and issuance of license; conditions precedent to issuance
- 110.03 City Clerk to maintain record of licenses and his actions relating thereto; destruction of records
- 110.04 Separate license required for each fixed place of business and each class of business
- 110.05 Conditions precedent to doing business
- 110.06 License does not legalize unlawful acts
- 110.07 Duration of licenses; license year; when license fee may be prorated
- 110.08 Exhibition of licenses
- 110.09 License a personal privilege; not assignable; exceptions
- 110.10 Effect of change in partners or name of firm
- 110.11 Collection by distraint
- 110.12 Collection by action or suit
- 110.13 Additional penalties when business transacted without license
- 110.14 Prosecution for violations; recourse of city to seek injunctions
- 110.15 Suspension and revocation of licenses and public hearings upon appeal from revocation

#### **Charter reference:**

*Licensing powers of Common Council, see Charter, § 25*

#### **Statutory reference:**

*Authority of city to require city license for anything requiring a state license and to impose*

*city license tax not exceeding amount of state license tax, see W.V. Code, § 8-13-4*

*Effect of state licenses within municipalities, see W.V. Code, § 11-12-19*

### **TAXES LEVIED.**

No person shall, without a currently valid city license, engage in or prosecute within this city any of the businesses, activities, trades, professions or employments named in this chapter. The license taxes or fees hereinafter specified are levied on every person engaging in or prosecuting within this city any such business, activity, trade, profession or employment.

(1970 Code, § 12-1)

#### **Statutory reference:**

*Corresponding state law relating to state licenses,*

*see W.V. Code, § 11-12-2*

### **§ 110.02 APPLICATION FOR AND ISSUANCE OF LICENSE; CONDITIONS PRECEDENT TO ISSUANCE.**

The licenses provided for in this chapter shall be issued by the City Clerk, in the form of a certificate, to any person making proper application therefor on forms to be prescribed and furnished by the City Clerk, and upon tendering the license tax for each license certificate requested. The City Clerk shall collect in full the proper taxes and fees and determine to his satisfaction that all the conditions precedent to the granting of any license have been fulfilled by the applicant before issuing a certificate of license.

(1970 Code, § 12-2)

#### **Statutory reference:**

*Corresponding state law relating to state licenses,*

*see W.V. Code, § 11-12-15*

### **§ 110.03 CITY CLERK TO MAINTAIN RECORD OF LICENSES AND HIS ACTIONS RELATING THERETO; DESTRUCTION OF RECORDS.**

The City Clerk shall maintain on file all applications for licenses and the renewal of licenses

### **§ 110.01 LICENSES REQUIRED AND LICENSE**

received by him, together with a record of each license issued or renewed by him showing the name and address of the licensee, the place licensed, type of activity licensed, the date, terms and conditions of the license and the tax or fee paid therefor, and such other information as may be pertinent, including any further action thereon which may be taken by the City Clerk, the Common Council or other authority having jurisdiction in the premises. The City Clerk shall preserve all such applications and records, each for a period of not less than 5 years from the date thereof, but in any event he may destroy any such application or record only with the approval of the Common Council upon advice of the City Attorney.  
(1970 Code, § 12-3)

#### **§ 110.04 SEPARATE LICENSE REQUIRED FOR EACH FIXED PLACE OF BUSINESS AND EACH CLASS OF BUSINESS.**

Any person who, at more than 1 fixed place of business within the city, engages in or prosecutes any business, activity, trade, profession or employment for which a license is required by this chapter, or who within the city engages in or prosecutes more than 1 type of business, activity, trade, profession or employment for which a license is required by this chapter, shall obtain a separate license and pay the prescribed tax or fee therefor for each such fixed place of business and for each such business, activity, trade, profession or employment.  
(1970 Code, § 12-4)

#### **§ 110.05 CONDITIONS PRECEDENT TO DOING BUSINESS.**

Payment in full of the proper tax and fee as specified in this chapter, the issuance of a certificate

of license under the provisions of § 110.02 and the fulfillment of all terms and conditions of such grant shall be conditions precedent to the transaction of any business, activity, trade, profession or employment for which a license is required by this chapter.

(1970 Code, § 12-5)

#### ***Statutory reference:***

*Corresponding state law relating to state licenses,  
see W.V. Code, § 11-12-16*

#### **§ 110.06 LICENSE DOES NOT LEGALIZE UNLAWFUL ACTS.**

Nothing in this chapter, and no payment or issuance of any certificate of license under the provisions hereof, shall be deemed to legalize any act which otherwise may be in violation of law or to exempt any person from any penalty prescribed for such violation.

(1970 Code, § 12-6)

***Statutory reference:***

*Corresponding state law relating to state licenses,  
see W.V. Code, § 11-12-18*

*Effect of state license within the city, see W.V.  
Code, § 11-12-19*

**§ 110.07 DURATION OF LICENSES; LICENSE YEAR; WHEN LICENSE FEE MAY BE PRORATED.**

Except as may be otherwise expressly provided in this chapter, all annual licenses issued under the provisions of this chapter shall be for a period of 1 year beginning on July 1 and ending on the following June 30; provided, that licenses granted prior to January 1 of any license year shall be charged at the full annual fee and all licenses issued on or after January 1 shall be charged at one-half of the full annual fee, as prescribed in this chapter; provided, that the minimum fee in any case shall be \$2.

(1970 Code, § 12-7)

***Statutory reference:***

*Corresponding state law relating to state licenses,  
see W.V. Code, § 11-12-20*

## **§ 110.08 EXHIBITION OF LICENSES.**

(A) Every person to whom a certificate of license shall be issued under the provisions of this chapter shall keep such certificate posted in a conspicuous position in the place where the privileges of such license are exercised, except as otherwise specifically provided for in this chapter.

(B) Such certificate of license shall be produced for inspection whenever required by the City Clerk, the City Attorney or any police officer.

(1970 Code, § 12-8)

***Statutory reference:***

*Corresponding state law relating to state licenses,  
see W.V. Code, § 11-12-22*

## **§ 110.09 LICENSE A PERSONAL PRIVILEGE; NOT ASSIGNABLE; EXCEPTIONS.**

Every license issued under the provisions of this chapter shall confer a personal privilege only to transact the business, activity, trade, profession or employment which may be the subject of the license and shall not be exercised except by the person in whose name it is issued and shall not be assignable; provided, that upon the death or incapacity of a natural person who is a licensee, such license may be transferred to an heir or personal representative or, in the discretion of the Common Council, the amount of the license tax which is attributable to that portion of the license year remaining after the death or incapacity of such licensee may be refunded to his heirs or personal representatives.

(1970 Code, § 12-9)

***Statutory reference:***

*Corresponding state law relating to state licenses,  
see W.V. Code, § 11-12-23*

## **§ 110.10 EFFECT OF CHANGE IN PARTNERS OR NAME OF FIRM.**

No changes in the name of the firm, nor the taking in of 1 or more new partners, nor the withdrawal of 1 or more members of the firm, so long

as at least 1 member remains the same, shall be considered as terminating the privileges of any license granted to such partners or firm.

(1970 Code, § 12-10)

***Statutory reference:***

*Corresponding state law relating to state licenses,  
see W.V. Code, § 11-12-24*

**§ 110.11 COLLECTION BY DISTRAINT.**

The City Clerk may distrain upon any personal property, including intangibles, of any person delinquent in the payment of taxes and penalties accrued and unpaid under the provisions of this chapter and may require the assistance of the Chief of Police for such purposes.

(1970 Code, § 12-11)

***Statutory reference:***

*Corresponding state law relating to state licenses,  
see W.V. Code, § 11-12-25*

**§ 110.12 COLLECTION BY ACTION OR SUIT.**

The City Clerk may collect any license tax and penalty unpaid under the provisions of this chapter by civil action or other appropriate proceeding in any court of competent jurisdiction.

(1970 Code, § 12-12)

**§ 110.13 ADDITIONAL PENALTIES WHEN BUSINESS TRANSACTED WITHOUT LICENSE.**

Any person engaging in or prosecuting any business, activity, trade, profession or employment contrary to the provisions of this chapter, whether without obtaining a license therefor before commencing the same, or by continuing the same after the termination of the effective period of any such license, shall, in addition to paying the license tax, be liable to the following penalties. If the license tax to which he is subject is an annual one, or for a period of 1 month or more, 10% of such tax for each month or



part thereof during which he had been in default; if the license tax aforesaid is for any period less than 1 month, 10% of such tax for each such tax period or part thereof during which he has been in default. It shall be the duty of the City Clerk to collect the full amount of the license and penalty therefor.  
(1970 Code, § 12-13)

#### **§ 110.14 PROSECUTION FOR VIOLATIONS; RECOURSE OF CITY TO SEEK INJUNCTIONS.**

If any person engages in or prosecutes any business, activity, trade, profession or employment contrary to any of the provisions of this chapter, whether without first obtaining a license therefor or by continuing the same after the termination of the effective period of any such license, or by any violation of the terms and conditions of such license, he shall be subject to immediate prosecution in the Police Court and, in addition, the City Attorney may, in the name of the city, seek such injunctive relief as may be appropriate in any court of competent jurisdiction.

(1970 Code, § 12-14)

***Statutory reference:***

*Corresponding state law relating to state licenses,  
see W.V. Code, § 11-12-26*

#### **§ 110.15 SUSPENSION AND REVOCATION OF LICENSES AND PUBLIC HEARINGS UPON APPEAL FROM REVOCATION.**

The City Clerk, upon reasonable notice to the licensee, may summarily revoke any license issued pursuant to the provisions of this chapter for any reason which would have been grounds for denial of such license when first issued, for violation of any term or condition of such license, for violation of any pertinent provision of state law, this code or other ordinance, or for the perpetration or attempted perpetration of fraud, malpractice or malfeasance by the licensee, without prejudice to prosecution of such licensee by the city. Any person having an interest in

any license so revoked and who feels aggrieved thereby may request the City Clerk to further investigate the grounds for revocation and to reconsider his action, and if the City Clerk accedes to such request he may suspend or reinstate the license pending his final decision. If the City Clerk refuses to accede to such request, or if, upon reconsideration, he affirms his revocation of the license, the party so aggrieved may appeal to the Common Council, which shall, without delay, afford such person a public hearing at which he may appear in person or by counsel and may have the attendance of witness, books and papers in his behalf and may testify in person. The decision of the Common Council following such hearing shall be final, subject only to such judicial review as may be provided by law.  
(1970 Code, § 12-15)

## CHAPTER 111: BUSINESS REGULATIONS

### Section

- 111.01 Advertising by outdoor billboards or signs
- 111.02 Auctioneers
- 111.03 Bowling lanes and billiard, pool or bagatelle tables
- 111.04 Brokers and real estate dealers
- 111.05 Cigarette wholesalers and subjobber dealers
- 111.06 Circus parade
- 111.07 Circuses, carnivals and other public shows
- 111.08 Coin-operated devices vending merchandise, rendering services or providing amusement
- 111.09 Collection agencies
- 111.10 Employment agents; exemption
- 111.11 Fortunetelling, mind reading and the like
- 111.12 Hawkers and peddlers
- 111.13 Junk dealers and their agents
- 111.14 Pawnbrokers
- 111.15 Small loan companies
- 111.16 Annual license tax for stores; rate of tax; exemption
- 111.17 Annual license tax for wine stores; rate of tax; exemption
- 111.18 Theatrical performances
- 111.19 Theaters and public shows
- 111.20 Trading stamps
- 111.21 Weapon dealers
- 111.22 Admissions tax on tickets to public entertainments for private profit

#### **Statutory reference:**

*Authority of city to impose license tax on businesses and occupations, see W.V. Code, § 8-13-5*

### **§ 111.01 ADVERTISING BY OUTDOOR BILLBOARDS OR SIGNS.**

The annual license fee for every person engaged within the city in the business of outdoor advertising by billboards or signs shall be \$100.  
(1970 Code, § 12-16)

#### **Statutory reference:**

*Regulation of outdoor advertising, see W.V. Code, §§ 17-22-1 et seq.  
Similar state law as to state licenses, see W.V. Code, § 17-22-13*

### **§ 111.02 AUCTIONEERS.**

The annual license fee to carry on the business of auctioneer shall be \$10.  
(1970 Code, § 12-17)

### **§ 111.03 BOWLING LANES AND BILLIARD, POOL OR BAGATELLE TABLES.**

(A) The annual license fee to keep or maintain a bowling lane, a billiard, pool or bagatelle table, or table of like kind, for public use, where any charge is made for the use thereof, shall be \$20; but, if more than 1 of such lanes or tables be kept or maintained in the same building by the same person, the fee shall be \$20 for the first one and \$10 for each additional one.

(B) The licensee, his agents or employees shall not permit any person in any manner to bet or wager anything of value upon any game played upon such lanes or tables.

(C) Such licensee, his agents or employees shall not permit anyone to bring any intoxicating liquors of any kind into such building or other place where such lanes or tables are located.

(D) Persons keeping or maintaining billiard, pool or bagatelle tables, or other tables of like kind in an establishment where intoxicating liquor or nonintoxicating beer is sold shall not permit persons under the age of 18 years to play at such tables or to remain or loiter in the room where such tables are located.

(1970 Code, § 12-18) (Ord. passed 6-19-1962)

***Statutory reference:***

*Similar state law as to state licenses, see*

*W.V. Code, § 11-12-14*

**§ 111.04 BROKERS AND REAL ESTATE DEALERS.**

(A) The annual license fee to practice the business of stock and securities broker, or broker other than pawnbroker, by buying and selling for others stocks, securities or property, for commission, compensation or reward, shall be \$50.

(B) The annual license fee to practice the business of real estate broker or real estate agent shall be \$10, in addition to all other taxes prescribed by this code. The term ***REAL ESTATE AGENT*** shall include any person who, for commission, compensation or reward, is engaged in the selling, or negotiating of sales, of real estate belonging to others, or obtains or places loans for others on real estate, or advertises or solicits for sale of real estate belonging to others, or collects rent and attends to the leasing or sale of real property. This subsection shall not apply to licensed practicing attorneys who, in the normal course of their profession, are acting in behalf of clients.

(1970 Code, § 12-19)

**§ 111.05 CIGARETTE WHOLESALERS AND SUBJOBBER DEALERS.**

(A) No person shall engage in or conduct the business of purchasing, selling, consigning or

distributing cigarettes in the city without having first obtained the appropriate license for that purpose as prescribed in this section. The annual license fee as a wholesaler or subjobber dealer to sell cigarettes shall be divided into 3 classes as follows:

- (1) Class A: all dealers who sell annually up to 750,000 packages of cigarettes, \$100;
- (2) Class B: all dealers who sell annually from 750,000 packages of cigarettes to 1,500,000 packages, \$200;
- (3) Class C: all dealers who sell annually more than 1,500,000 packages of cigarettes, \$350, plus a fee of \$0.50 for each license issued.

(B) For the purposes of this section, **WHOLESALE** shall include any person who purchases unstamped cigarettes directly from the manufacturer, and **SUBJOBBER DEALER** shall include any person who purchases stamped cigarettes from any other person who purchases from the manufacturer when such other person is located in any state which levies an excise tax on cigarettes and who purchases such cigarettes solely for the purpose of bona fide resale to retail dealers or to other wholesalers.  
(1970 Code, § 12-20)

#### **§ 111.06 CIRCUS PARADE.**

Any circus, menagerie or other show of any kind that gives its exhibitions within the limits of the city shall have the free right-of-way of the streets of the city for a parade; otherwise in such cases, a tax of \$15 shall be charged for any such street parade in the city.  
(1970 Code, § 12-21)

#### **§ 111.07 CIRCUSES, CARNIVALS AND OTHER PUBLIC SHOWS.**

(A) The license to exhibit a circus or menagerie, a circus and menagerie combined, wild west show or other itinerant show not exhibited in a theater, opera house or other permanent place for public shows shall

be based upon the number of railroad cars or motor trucks used to transport the property or equipment of such shows, but not including railroad cars or motor trucks used to transport the personnel thereof. If railroad cars are used the fee shall be \$4 for each car for each day on which any performance is given; if motor trucks are used the fee shall be \$3 for each truck for each day on which any performance is given.

(B) The license fee to exhibit a street or other carnival shall be \$5 a week for each entertainment, performance or exhibition given at or in the vicinity of any such carnival. Each such entertainment, performance or exhibition shall require a separate license, whether or not shown under the same canvas and whether or not exhibited for additional compensation; and upon any such entertainment, performance or exhibition being concluded, so that an additional fee for admission is charged, an additional license fee shall be required for any further or additional entertainment, performance or exhibition to operate any riding device of any kind at or in the vicinity of any street or carnival show, the fee shall be \$10 a week for each such device.

(C) To keep or maintain any concession stand selling services, goods, wares or merchandise, such as food, soft drinks, ice cream, candy floss and the like at or in the vicinity of such street or carnival show, the fee shall be \$5 a week for each such concession. To maintain any concession stand such as ball games, bingo, cane rack, penny pitch-till-you-win, striking machine, weighing machine, shooting gallery, artful dodger, bumper, fish pond, dart game, or other legitimate games of skill, none of which shall be controlled by the operator, at or in the vicinity of any street or carnival show, the fee shall be \$10 a week for each such concession. To operate or maintain a candy wheel or any other legitimate merchandise wheels, when operated without control of the operator, shall be \$25 a day. To operate or maintain rides of all kinds shall be \$10 each a week; provided, that such games as roll downs, blowers, spinners, swinging ball, creepers, race tracks, spot the spot, and all other games controlled by the operator are hereby forbidden, and no license shall be granted to any

circus, show or street carnival where such games are operated; provided further, that no circus, show or street carnival shall be licensed which has any gypsy fortunetellers.

(D) The provision of this section shall not apply to any educational, literary, dramatic, musical, patriotic or benevolent society, or volunteer fire companies, not conducted for private profit, where such exhibitions are confined to the city, unless professional or paid talent, other than director, is employed in such exhibitions.

(E) Before any such license or permit described in this section shall be issued, the applicant shall provide satisfactory proof of ownership of a comprehensive public liability insurance policy with a company licensed to do business in this state with policy limits of not less than \$1,000,000 per person per accident and shall further furnish unto the office of the Clerk a certificate or other written documentation that the equipment, machinery, apparatus, or devices, in the case of an amusement ride, meets all applicable safety standards and codes which certificate or other documentation shall be not more than 30 days in age. In addition to the foregoing, each applicant for license hereunder shall admit or permit the City Building Inspector or his agents to inspect and or test all such equipment, machinery, apparatus or devices at any time or times requested by such Inspector.

(F) All applicants for a license hereunder shall, before obtaining permission to do business, deposit with the City Clerk the sum of \$100 to insure that the performance site will be cleaned and left free of rubbish, trash and other debris following the completion of the final performance or day of business operation which deposit shall be refunded to applicant upon certification of compliance hereunder by the City Building Inspector or his agents.

(1970 Code, § 12-22) (Ord. passed 6-17-1986)

***Statutory reference:***

*Similar state law as to state license, see*

*W.V. Code, § 11-12-4*

**§ 111.08 COIN-OPERATED DEVICES VENDING MERCHANDISE, RENDERING SERVICES OR PROVIDING AMUSEMENT.**

*(A) General.*

(1) Persons owning and operating a coin-operated merchandise, service, amusement or music devices or vending machines shall obtain annual licenses and pay the fees prescribed in this section. The liability for the license to operate any type of coin-operated merchandise, service, amusement or music devices or vending machines shall be upon the owner of the machine. The ownership shall be established by either a bill of sale, paid invoice, or a conditional sales contract which has been recorded as provided by state law. The leasing of such a machine shall not be considered as a transfer of ownership of the machine and where a lessor-lessee relationship exists, the lessor shall be liable for the applicable license and fees.

(2) The annual license fee to own and operate a coin-operated baggage or parcel checking machine or device which is used for the storage of baggage or parcels of any character shall be \$0.50 for each section of any such device which is operated on the coin-in-the-slot principle; the annual license fee to own and operate any coin-operated toilet locker or device, sanitary napkin device or bed vibrator device shall be \$0.50 for every such locker or device. The city will not furnish decal stamps for these devices; however, the owner shall identify each machine by installing on each device, in addition to the label required by the state, an identification label, plainly legible and visible, in such a manner that the machine need not be moved to observe the identification label, and the identification label shall contain the name of the owner, his city license number, his street address and name of this city.

(3) The annual license fee to own and operate a total of 20 or more coin-operated amusement or music devices of the following types shall be: \$0.01 devices, \$50; \$0.05 devices, \$150; \$0.10 devices, \$225; over \$0.10 devices, \$300. The operator of more than 1 type of such devices shall pay



the highest fee prescribed. The license fee to own and operate less than 20 amusement or music devices shall be upon a per device basis as follows: \$0.01 devices, \$2; \$0.05 devices, \$5; \$0.10 devices, \$10; over \$0.10 devices, \$12.50. Any device taking more than 1 denomination of coin shall be licensed on the basis of the largest denomination of coin taken or the total of the coins necessary to make the device function or operate.

(4) The annual license fee to own and operate a total of 20 or more coin-operated merchandise or service devices of the following types shall be: \$0.01 devices, \$50; \$0.05 devices, \$100; \$0.10 devices, \$150; over \$0.10 devices, \$250. The operator of more than one type of such devices shall pay the highest fee prescribed. The license fee to own and operate less than 20 merchandise or service devices shall be upon a per device basis as follows: \$0.01 devices, \$2; \$0.05 devices, \$5; \$0.10 devices, \$10; over \$0.10 devices, \$12.50. Any device taking more than 1 denomination of coin shall be licensed on the basis of the largest denomination of coin taken or the total of the coins necessary to make the device function or operate.

(5) No license fee shall be required of stores or businesses owning and operating such machines or devices owned by them in their own licensed stores; provided, that where the principal business is the operation of the machines or devices, then licenses shall be obtained as outlined above; and provided further, that any person exempt from or not liable for such license shall identify each machine by installing on each device, in addition to the label required by the state, an identification label, plainly legible and visible, in such a manner that the machine need not be moved to observe the identification label, and the identification label shall contain the name of the owner, his store license number, his street address and name of this city.

(6) The provisions of this section shall not be applicable to any pay telephone, postage stamp vending machines or currency changing machines operated on the coin-in-the-slot principle.

(7) The fees herein prescribed are on an annual basis and shall be prorated only to the extent of 50% thereof for licenses first procured during the second half of any license year; the fees herein prescribed shall not be refundable if a license is revoked or suspended or if business ceases during the license year.  
(1970 Code, § 12-23)

(B) *Nonprofit organizations.* No license fee shall be required under the provisions of division (A) of this section of any person keeping or maintaining within the city any coin-in-the-slot machines or devices, which are not gambling devices under the laws of the state, if the owner, operator or sponsor of such machines or devices attach to his application, upon making application for such license, the affidavit of the president or other chief official of a nonstock corporation, nonprofit association, or nonprofit organization, organized and existing under the laws of the state for benevolent, patriotic, civic, educational, eleemosynary or philanthropic purposes, stating that:

(1) Not less than 20% of the gross receipts from such automatic machines or devices are payable to such nonstock corporation;

(2) That the gross receipts paid to such nonstock corporation shall be used solely for benevolent, patriotic, civic, educational, eleemosynary and philanthropic purposes; and

(3) That the execution of the affidavit has been authorized by a duly constituted meeting of the trustee, directors or members of such nonstock corporation. Upon the issuance of a license for which no fee shall be charged under this section, a decalcomania stamp shall be issued for each machine for which such nonfee license is issued, showing such exemption.

(1970 Code, § 12-24) (Ord. passed 4-4-1967)

#### **§ 111.09 COLLECTION AGENCIES.**

The annual license fee to engage in the business of a collection agency within this city shall be \$100.

For purposes of this section, solicitation or collection by or through an agent operating within this city shall be considered to be engaging in the business of a collection agency within this city. Before such certificate of license is issued, the person applying therefor shall execute a continuing bond in the form prescribed by the City Clerk with satisfactory corporate surety in the penalty of \$5,000, conditioned that such person will pay all damages resulting from any unlawful act or action by such person or his or its agent in connection with the conduct of the business of the collection agency. This bond shall be filed with the City Clerk.  
(1970 Code, § 12-25)

#### **§ 111.10 EMPLOYMENT AGENTS; EXEMPTION.**

(A) The annual license fee to conduct the business of an employment agent, to receive applications for employment or to hire or contract with persons for employment shall be \$200, except that the annual license fee for an agency or registry for the employment of registered professional nurses, practical nurses or undergraduate nurses shall be \$25; provided, that the provisions of this section shall not be applicable to any such agency or registry operated by a registered professional nurses association or any district subdivision thereof for the exclusive benefit of its registrants and not for profit.

(B) When used in this section, the term ***EMPLOYMENT AGENT*** shall be deemed to mean and include the same persons as defined in W.V. Code, § 21-2-4.

#### **§ 111.11 FORTUNETELLING, MIND READING AND THE LIKE.**

The annual license to act as a fortuneteller, palmist, phrenologist, spiritualist, medium, clairvoyant, mind reader, or any other person who

performs the art or profession of telling the past or forecasting the future shall be \$200.  
(1970 Code, § 12-27)

**Statutory reference:**

*For similar state law as to state licenses, see  
W.V. Code, § 11-12-6*

**§ 111.12 HAWKERS AND PEDDLERS.**

(A) *Definitions.* For the purpose of this section the following definitions shall apply unless the context clearly indicates or requires a different meaning.

**BUSINESS.** The business carried on by any person who is an itinerant merchant, peddler, or solicitor as defined in this section.

**GOODS.** Merchandise of any description whatsoever, and includes, but is not restricted to, wares and foodstuffs.

**ITINERANT MERCHANT.** Any person, whether as owner, agent, or consignee, who engages in a temporary business of selling goods within the city and who, in the furtherance of such business, uses any building, structure, vehicle, or any place within the city.

**PEDDLER.** Any person, not an itinerant merchant, who:

(a) Travels from place to place by any means carrying goods for sale, or making sales, or making deliveries; or

(b) Without traveling from place to place, sells or offers goods for sale from any public place within the city.

**SOLICITOR.** Any person who travels by any means from place to place, taking or attempting to take orders for sale of goods to be delivered in the future or for services to be performed in the future. A person who is a **SOLICITOR** is not a **PEDDLER**.

(B) *License requirement.*

- (1) Any person who is an itinerant merchant, peddler, or solicitor shall obtain a license before engaging in such activity within the city.
- (2) The fee for the license required by this section shall be as set from time to time by the Common Council.
- (3) No license issued under this section shall be transferable.
- (4) All licenses issued under this section shall expire 90 days after the date of issuance thereof.

(C) *Application procedure.*

(1) All applicants for licenses required by this section shall file an application with the Clerk. This application shall be signed by the applicant if an individual, or by all partners if a partnership, or by the president if a corporation. The applicant may be requested to provide information concerning the following items:

- (a) The name and address of the applicant;
- (b)
  1. The name of the individual having management authority or supervision of the applicant's business during the time that it is proposed to be carried on in the city;
  2. The local address of such individual;
  3. The permanent address of such individual;
  4. The capacity in which such individual will act;
- (c) The name and address of the person, if any, for whose purpose the business will be carried on, and, if a corporation, the state of incorporation;

- (d) The time period or periods during which it is proposed to carry on applicant's business;
  - (e) 1. The nature, character, and quality of the goods or services to be offered for sale or delivered;
  - 2. If goods, their invoice value and whether they are to be sold by sample as well as from stock;
  - 3. If goods, where and by whom such goods are manufactured or grown, and where such goods are at the time of application;
  - (f) The nature of the advertising proposed to be done for the business;
  - (g) Whether or not the applicant, or the individual identified in subsection (1)(b)1 above, or the person identified in subsection (1)(c) has been convicted of any crime or misdemeanor and, if so, the nature of each offense and the penalty assessed for each offense.
- (2) Applicants for peddler or solicitor licenses may be required to provide further information concerning the following items, in addition to that requested under subsection (1) above:
- (a) A description of the applicant;
  - (b) A description of any vehicle proposed to be used in the business, including its registration number, if any.
- (3) All applicants for licenses required by this chapter shall attach to their application, if required by the city, credentials from the person, if any, for which the applicant proposes to do business, authorizing the applicant to act as such representative.
- (4) Applicants who propose to handle foodstuffs shall also attach to their application, in addition to any attachments required under subsection (3), a statement from a licensed physician, dated not

more than ten days prior to the date of application, certifying the applicant to be free of contagious or communicable disease.

(D) *Standards for issuance.*

(1) Upon receipt of an application, an investigation of the applicant's business reputation and moral character shall be made.

(2) The application shall be approved unless such investigation discloses tangible evidence that the conduct of the applicant's business would pose a substantial threat to the public health, safety, morals, or general welfare. In particular, tangible evidence that the applicant has committed any of the following will constitute valid reasons for disapproval of an application:

- (a) Has been convicted of a crime of moral turpitude; or
- (b) Has made willful misstatements in the application; or
- (c) Has committed prior violations of ordinances pertaining to itinerant merchants, peddlers, solicitors, and the like; or
- (d) Has committed prior fraudulent acts; or
- (e) Has a record of continual breaches of solicited contracts.

(E) *Revocation procedure.* Any license or permit granted under this chapter may be revoked by the Clerk after notice and hearing, pursuant to the standards in division (F). Notice of hearing for revocation shall be given in writing, setting forth specifically the grounds of the complaint and the time and place of the hearing. Such notice shall be mailed to the licensee at his last known address, at least ten days prior to the date set for the hearing.

(F) *Standards for revocation.* A license granted under this chapter may be revoked for any of the following reasons:

- (1) Any fraud or misrepresentation contained in the license application; or
- (2) Any fraud, misrepresentation, or false statement made in connection with the business being conducted under the license; or
- (3) Any violation of this chapter; or
- (4) Conviction of the licensee of any felony, or conviction of the licensee of any misdemeanor involving moral turpitude; or
- (5) Conducting the business licensed in an unlawful manner or in such a way as to constitute a menace to the health, safety, morals, or general welfare of the public.

(G) *Appeal procedure.*

(1) Any person aggrieved by a decision under divisions (D) or (F) shall have the right to appeal to the Common Council. The appeal shall be taken by filing with the Common Council, within 14 days after notice of the decision has been mailed to such person's last known address, a written statement setting forth the grounds for appeal. The Common Council shall set the time and place for a hearing, and notice for such hearing shall be given to such person in the same manner as provided in division (E).

(2) The order of the Common Council after the hearing shall be final.

(H) *Exhibition of identification.*

(1) Any license issued to an itinerant merchant under this chapter shall be posted conspicuously in or at the place named therein. In the event more than one place within the city shall be used to conduct the business licensed, separate licenses shall be issued for each place.

(2) The Clerk shall issue a license to each peddler or solicitor licensed under this chapter. The license shall contain the words "Licensed Peddler" or "Licensed Solicitor," the expiration date of the



license, and the number of the license. The license shall be kept with the licensee during such time as he is engaged in the business licensed.

(I) *City policy on soliciting.* It is hereby declared to be the policy of the city that the occupants of the residences in the city shall make the determination of whether solicitors shall be, or shall not be, invited to their respective residences.

(J) *Notice regulating soliciting.*

(1) Notice of the refusal of invitation to solicitors, to any residence, shall be given on a weatherproof card, approximately three inches by four inches in size, exhibited upon or near the main entrance door to the residence, indicating the determination by the occupant, containing the applicable words, as follows:

“NO SOLICITORS INVITED”

(2) The letters shall be at least 1/3-inch in height. For the purpose of uniformity, the cards shall be provided by the Chief of Police to persons requesting, at the cost thereof.

(3) The card so exhibited shall constitute sufficient notice to any solicitor of the determination by the occupant of the residence of the information contained thereon.

(K) *Duty of solicitors to ascertain notice.*

(1) It shall be the duty of every solicitor upon going onto any premises in the city upon which a residence is located to first examine the notice provided for in division (J) if any is attached, and be governed by the statement contained on the notice. If the notice states “NO SOLICITORS INVITED,” then the solicitor, whether registered or not, shall immediately and peacefully depart from the premises.

(2) Any solicitor who has gained entrance to any residence, whether invited or not, shall immediately and peacefully depart from the premises when requested to do so by the occupant.

(L) *Prohibited solicitation.* It is hereby declared to be unlawful and shall constitute a nuisance for any person to go upon any premises and ring the doorbell upon or near any door, or create any sound in any manner calculated to attract the attention of the occupant of such residence, for the purpose of securing an audience with the occupant thereof and engage in soliciting in defiance of the notice exhibited at the residence in accordance with the provisions of division (J) above.  
(1970 Code, § 12-28) Penalty, see § 10.99

### **§ 111.13 JUNK DEALERS AND THEIR AGENTS.**

(A) For the purposes of this section, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

***JUNK.*** Old or scrap gold, copper, brass, rope, rags, batteries, paper, rubber, automobile parts, iron, steel and other old scrap ferrous or nonferrous metals.

***JUNK DEALERS.*** All persons engaged in the business of buying or selling junk as herein defined.

***JUNK DEALER'S AGENTS.*** All persons who buy or sell junk for or on behalf of a junk dealer, but the term junk dealer's agent shall not be construed to include any persons regularly employed upon a salary by a regularly licensed junk dealer engaged in such business within the city.

***ITINERANT JUNK COLLECTOR.*** Only such persons who gather junk from place to place with the aid of a cart or vehicle hand drawn or propelled who have no fixed place of business.

***NONRESIDENT JUNK DEALER*** or ***NONRESIDENT JUNK DEALER'S AGENT.*** All persons who act as junk dealers or junk dealer's agents within the city who are nonresidents of Jackson County, and all firms so engaged whose members are

nonresidents of Jackson County and all corporations which do not hold property and transact business in this city.

(B) No person shall engage within the city in the business of junk dealer, junk dealer's agent or itinerant junk collector without a city license therefor.

(C) No corporation or firm shall engage in the business of junk dealer or junk dealer's agent in the city unless the officers or agents of such corporation or firm who engage in the business of junk dealer or junk dealer's agent, in behalf of such corporation or firm, shall be eligible to be duly licensed as resident junk dealers or junk dealer's agents in accordance with the provisions of this section.

(D) The annual license fee to act as a resident junk dealer shall be \$25; to act as a junk dealer's agent, \$10; to act as a nonresident junk dealer or his agent who buys or solicits for the purchase of junk within the city, \$150; to act as an itinerant junk collector, \$2. No nonresident licensee shall be permitted to maintain a fixed place of business within the city; provided, that any nonresident junk dealer may purchase junk from any resident junk dealer without complying with the provisions of this section, but if such nonresident junk dealer comes into the city in any motor vehicle or horse-drawn vehicle, he shall not be permitted to transport from the city in such vehicle junk purchased from resident junk dealers, unless there is a compliance with this section.

(E) Every resident junk dealer shall certify to the City Clerk the names of the agents for whom he desires a license certificate and shall give to each agent so engaged by him a certificate of authority, which certificate the agent shall at all times keep with his license, and no such junk dealer's agent's license shall be valid and effective without such certificate of authority. The City Clerk shall give to each license certificate a numerically designated permit, and such permit so given shall be plainly stenciled or printed as "Dealer's Permit No. \_\_\_\_\_" "Agent's Permit No. \_\_\_\_\_" "Itinerant Collector's Permit No. \_\_\_\_\_" "Nonresident Permit No. \_\_\_\_\_".

\_\_\_\_\_” as the case may be, upon both sides of all trucks or other vehicles used in the collecting and transporting of junk. But the City Clerk shall not issue a junk dealer’s agent’s license until the applicant therefor shall first have presented a certificate from a duly licensed junk dealer showing such authorization, and no license shall be issued to a junk dealer’s agent or itinerant junk collector unless he shall file with the City Clerk an affidavit setting forth that such applicant has not been convicted of a felony and that he has not been convicted of a misdemeanor in connection with junk business within a 5 year period to the time of his application, which certificate and affidavit shall be filed by the City Clerk.

(F) No one who has been convicted of a felony shall be licensed as a junk dealer, junk dealer’s agent or itinerant junk collector, and no one convicted of a misdemeanor in connection with the junk business within a 5 year period prior to the passage of this section shall be licensed as a junk dealer, junk dealer’s agent or itinerant junk collector.

(G) No person engaged in the junk business shall engage a person as a junk dealer’s agent who is ineligible to receive a resident junk dealer’s or junk dealer’s agent’s license. Any license issued upon false affidavit or any improper license issued hereunder shall be ipso facto void.

(1970 Code, § 12-29)

***Statutory reference:***

*Similar state law as to state licenses, see W.V.*

*Code, § 11-12-7*

**§ 111.14 PAWNBROKERS.**

The annual license fee to engage in the business of pawnbroker shall be \$100. The term ***PAWNBROKER*** shall include any person, firm, partnership, association or corporation engaged in the business of lending money on deposit or pledge of personal property or other valuable thing, other than securities or printed evidence of indebtedness, or in the business of purchasing personal property, such as articles made of or containing gold, silver, platinum

or other precious metals or jewels of any description for the purpose of reducing or smelting them into any form different from their condition or construction when purchased and reselling or marketing the product.  
(1970 Code, § 12-30)

***Statutory reference:***

*Similar state law as to state licenses, see W.V. Code, § 11-12-9*

**§ 111.15 SMALL LOAN COMPANIES.**

Every person licensed by the state to make loans of money, credit, goods or things in action in the amount or of the value of \$800 or less, pursuant to the provisions of applicable state law, and who engages in such business within this city, shall pay an annual license fee of \$100.

(1970 Code, § 12-31)

**§ 111.16 ANNUAL LICENSE TAX FOR STORES; RATE OF TAX; EXEMPTION.**

(A) There is imposed an annual license tax upon the privilege of establishing, operating or engaging in or prosecuting any business activity, trade, profession or employment within the corporate limits, notwithstanding the fact that such place may also be or serve as the residence, home, abode or living quarters of the taxpayer.

(B) The annual rate of tax shall be \$10 for each regular business location, store or outlet maintained within the corporate limits.

(C) The establishment, operation or maintenance of stores by the following shall be exempt from the license tax imposed by this section:

- (1) The United States of America and the state and its political subdivisions;
- (2) Religious, charitable and patriotic or like organization not organized and conducting business for profit;

(3) Any person engaged within this state in the business of producing agricultural products who, individually or collectively, sells in such store only agricultural products which he has produced; and

(4) Any business within the definition of temporary businesses as defined in this code.

(D) The tax imposed by this section shall be payable on or within 30 days following July 1 of each year to the City Clerk, who shall issue duplicate receipts and a suitable license card upon payment.

(E) Each license card, or in lieu thereof, the receipt, issued by the City Clerk under the foregoing section shall be displayed in a conspicuous place upon the business premises for which such license was issued.  
(1970 Code, § 12-32) (Ord. passed 4-15-1975; Am. Ord. passed 4-7-1981)

#### **§ 111.17 ANNUAL LICENSE TAX FOR WINE STORES; RATE OF TAX; EXEMPTION.**

(A) There is imposed an annual license tax upon the privilege of establishing, operating or engaging in or prosecuting the privately owned business of selling wine at retail to the public within the corporate limits, notwithstanding the fact that such place may also be or serve as the residence, home, abode or living quarters of the taxpayer.

(B) The annual rate of tax shall be \$150 for each business location, store or outlet maintained within the corporate limits.

(C) The tax imposed by this section shall be payable on or within 30 days following July 1 of each year to the City Clerk, who shall issue duplicate receipts and a suitable license card upon payment.

(D) Each license card, or in lieu thereof, the receipt, issued by the City Clerk under this section, shall be displayed in a conspicuous place upon the business premises for which such license was issued.  
(Am. Ord. passed 7-21-1981)

#### **§ 111.18 THEATRICAL PERFORMANCES.**

The license fee to exhibit to the public any theatrical performance, other than 1 exhibited by the holder of a license to maintain a theater, opera house or other place for public shows in the course of his regular business, shall be \$5 per week or fraction of a week; provided, that this section shall not apply to performances given by amateurs, nor to educational institutions, nor to nonprofit literary, dramatic, benevolent, religious or patriotic organizations.  
(1970 Code, § 12-33)

#### **§ 111.19 THEATERS AND PUBLIC SHOWS.**

A theater, opera house or other permanent place for public shows, including a drive-in theater, may be kept or maintained within the city, when permitted in the zoning ordinance, upon the payment of a license fee of \$10 for 3 months, \$15 for 6 months, or \$20 for 1 year; provided, that a license to exhibit theatrical performances may be issued for 1 week, but for not less than 1 week, for \$5.  
(1970 Code, § 12-34)

#### **§ 111.20 TRADING STAMPS.**

The annual license fee to sell or offer for sale merchants trading stamps, premium stamps or stamps or certificates of like nature or to undertake to redeem such stamps or certificates in money or goods shall be \$175; provided, that this section shall not apply to any coupon or similar device issued and redeemed by a

manufacturer or packer.  
(1970 Code, § 12-35)

#### **§ 111.21 WEAPON DEALERS.**

The annual license fee to engage in the business of selling firearms, false knuckles, bowie knives or weapons of any kind shall be \$100 for wholesalers and \$50 for retailers.  
(1970 Code, § 12-36)

***Statutory reference:***

*State law prescribing certain regulations for  
weapons dealers, see W.V. Code, § 61-7-9*

#### **§ 111.22 ADMISSIONS TAX ON TICKETS TO PUBLIC ENTERTAINMENTS FOR PRIVATE PROFIT.**

(A) There is levied and shall be collected an amusement or admission tax on the sale of each adult ticket to any public amusement or entertainment conducted for private profit within the city. The tax shall be levied upon the purchaser and shall be added to the price of the ticket and collected by the seller. The tax shall be 2% of the price of each adult ticket, except that if the amount of the tax shall, when computed, be or contain a fraction of 1 cent, such fraction shall be 1 cent.

(B) Payment of the tax levied by this section shall be made to the Recorder within a reasonable period after collection but not to exceed 30 days, and a certified account of the sales made shall be submitted with payment.  
(1970 Code, § 12-44) (Ord. passed 10-1-1951)

***Statutory reference:***

*State law as to authority of city to impose a tax  
on tickets to public amusements or  
entertainments for private profit or gain, see  
W.V. Code, § 8-13-6*

## **CHAPTER 112: BUSINESS AND OCCUPATION TAX**

### **Section**

- 112.01 Definitions
- 112.02 Construction and applicability
- 112.03 Administration and enforcement
- 112.04 Imposition of tax
- 112.05 Specific taxes
- 112.06 Additional taxes
- 112.07 Exemptions
- 112.08 Industrial taxpayers
- 112.09 Newly annexed taxpayers
- 112.10 Approval of tax incentives for economic projects; exemption from business and occupation tax
- 112.11 Computation and payment of tax; semiannual returns
- 112.12 Erroneous computation
- 112.13 Duty of taxpayers to maintain records for city tax purposes; preservation of records
- 112.14 Procedure upon failure of taxpayer to make complete return, free of deficiencies; right of city to conduct investigation
- 112.15 Tax cumulative
- 112.16 Manner of payment; receipts; disposition of and accounting for revenue received by city
- 112.17 Tax is a debt; tax lien; penalties for nonpayment
- 112.18 Powers and duties of collector to collect taxes and penalties
- 112.19 Payment when person sells out or quits business; lien; liability of successor
- 112.20 Tax payment prerequisite to settlement by city with contractors
- 112.21 Recording of tax assessed and lien created thereby; issuance and recording of certificate upon payment of tax
- 112.22 Collection by distraint
- 112.98 Violations

### ***Statutory reference:***

*State law as to authority of city to impose tax on gross proceeds of business and occupations, see W.V. Code, §§ 8-13-5 and 11-13-25*



## § 112.01 DEFINITIONS.

For the purposes of this chapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

**BUSINESS.** All activities engaged in or caused to be engaged in with the object of gain or economic benefit, either direct or indirect. Business shall not include a casual sale by a person who is not engaged in the business of selling the type of property involved in such casual sale. **BUSINESS** shall include the production of natural resources or manufactured products which are used or consumed by the producer or manufacturer.

**COLLECTOR.** The City Clerk.

**COMPANY.** Used interchangeably with **PERSON** in this chapter and shall include any individual, firm, copartnership, joint adventure, association, corporation, trust or any other group or combination acting as a unit, and the plural as well as the singular number, unless the intention to give a more limited meaning is disclosed by the context.

**CONTRACTING.** The furnishing of work, or both materials and work, in the fulfillment of a contract for the construction, alteration, repair, decoration or improvement of a new or existing building or structure, or any part thereof, or for the alteration, improvement or development of real property.

**GROSS INCOME.** The gross receipts of the taxpayer received as compensation for personal services and the gross receipts of the taxpayer derived from trade, business, commerce or sales and the value proceeding or accruing from the sale of tangible property (real or personal), or service, or both, and all receipts by reason of the investment of the capital of the business engaged in, including rentals, royalties, fees or other emoluments however designated and without any deductions on account of the cost of property sold, the cost of materials used, labor costs, taxes, royalties, interest or discount paid or any other expense whatsoever. The term **GROSS PROCEEDS OF SALES** means the value, whether in money or other property, actually proceeding from the sale of tangible property without any deduction on account of the cost of property sold or expenses of any kind. The terms gross income and gross proceeds of sales shall not be construed to include:

- (1) Cash discounts allowed and taken on sales;
- (2) The proceeds of sale of goods, wares or merchandise returned by customers when the sale price is refunded either in cash or by credit;
- (3) The amount allowed as trade-in value for any article accepted as part payment on any article sold;
- (4) Excise taxes imposed by the state; or
- (5) Money or other property received or held by the taxpayer for the use or benefit of another person.

**SALE, SALES, SELLING.** Any transfer of the ownership of, or title to, property, whether for money or in exchange for other property.

**SELLING AT WHOLESALE; WHOLESALE SALES.** Means and includes:

- (1) Sales of any tangible personal property for the purpose of resale in the form of tangible personal property;

(2) Sales of machinery, supplies or materials which are to be directly consumed or used by the purchaser in the conduct of any business or activity which is subject to the tax imposed by this chapter;

(3) Sales of any tangible personal property to the United States of America, its agencies and instrumentalities or to the state, its institutions or political subdivisions.

***SERVICE BUSINESS OR CALLING.*** All activities, including professional services, engaged in for other persons for a consideration, which involve the rendering of a service as distinguished from the sale of tangible property, but shall not include the services rendered by an employee to his employer. This term shall include persons engaged in manufacturing, compounding or preparing for sale, profit or commercial use, articles, substances or commodities which are owned by another or others, as well as persons engaged as independent contractors in producing natural resource products for persons required to pay the tax imposed by § 112.05.

***TAXPAYER.*** Any person liable for any tax under this chapter.

***TAX YEAR; TAXABLE YEAR.*** The fiscal year except when permission has been obtained from the Common Council to use another year as the tax period in lieu of the fiscal year. The fiscal year shall begin on July 1 of each year and terminate with the expiration of the next succeeding June 30.  
(1970 Code, § 12-45) (Ord. passed 6-18-1968)

***Statutory reference:***

*Definitions applicable to state business and  
occupation tax, see W.V. Code, § 11-13-1*

## **§ 112.02 CONSTRUCTION AND APPLICABILITY.**

To the extent not herein set forth in this section, W.V. Code, Chapter 8, Art. 13, § 5, as amended, is incorporated into this code as if set forth in its entirety. Any provisions in the city code contrary to the provisions set forth in W.V. Code, Chapter 8, Art. 13, § 5 shall be resolved in favor of the West Virginia Code. (1970 Code, § 12-46) (Ord. passed 6-18-1968; Ord. passed 9-6-1977; Am. Ord. passed 1-18-1983; Am. Ord. passed 6-2-1987)

## **§ 112.03 ADMINISTRATION AND ENFORCEMENT.**

The administration of this chapter is vested in and shall be exercised by the City Clerk, who shall prescribe forms and reasonable rules of procedure in conformity with this chapter and with applicable state law and rules and regulations of the State Tax Commissioner for the making of returns and for the ascertainment, assessment and collection of the taxes imposed hereunder; the enforcement of any of the provisions of this chapter in any of the courts of the state or in the City Police Court shall be under the exclusive jurisdiction of the City Clerk, who may require the assistance of the City Attorney. (1970 Code, § 12-47) (Ord. passed 6-18-1968)

## **§ 112.04 IMPOSITION OF TAX.**

(A) There is levied and shall be collected annual privilege taxes against the persons, on account of the business and other activities, and in the amounts to be determined by the application of rates against values or gross income as set forth in this chapter.

(B) If any person liable for any tax under § 112.05 shall ship or transport his products or any part thereof out of the city without making sale of such products, the value of the products in the condition or form in which they exist immediately before transportation out of the city shall be the basis

for the assessment of the tax imposed in such sections, except in those instances in which another measure of the tax is expressly provided. The Common Council shall prescribe equitable and uniform rules for ascertaining such value.

(C) In determining value, however, as regards sales from one to another of affiliated companies or persons, or under other circumstances where the relation between the buyer and seller is such that the gross proceeds from the sales are not indicative of the true value of the subject matter of the sale, the Common Council shall prescribe uniform and equitable rules for determining the value upon which such privilege tax shall be levied, corresponding as nearly as possible to the gross proceeds from the sale of similar products of like quality or character where no common interest exists between the buyer and seller but the circumstances and conditions are otherwise similar; and, in those instances where the State Tax Commissioner has prescribed such uniform and equitable rules, the Common Council shall conform to the rules of the State Tax Commissioner.

(D) Gross income included in the measure of the tax under § 112.05, except in the case of production of natural gas, shall neither be added or deducted in computing the tax levied under the other sections of this chapter.

(E) A person exercising any privilege taxable under § 112.05 and engaging in the business of selling his natural resources or manufactured products at retail in this city shall be required to make returns of the gross proceeds of such retail sales and pay the tax imposed in § 112.05 for the privilege of engaging in the business of selling such natural resources or manufactured products at retail in this city. But any person exercising any privilege taxable under § 112.05 and engaging in the business of selling his natural resources or manufactured products to producers of natural resources, manufacturers, wholesalers or jobbers, retailers or commercial consumers for use or consumption in the purchaser's business shall not be required to pay the tax imposed in § 112.05.

(F) Manufacturers exercising any privilege taxable under § 112.05 shall not be required to pay the tax imposed in § 112.05 for the privilege of selling their manufactured products for delivery outside of this city, but the gross income derived from the sale of such manufactured products outside of this city shall be included in determining the measure of the tax imposed on such manufacturer in § 112.05.

(G) A person exercising privileges taxable under the other sections of this chapter, producing coal, oil, natural gas, minerals, timber or other natural resource products, the production of which is taxable under § 112.05, and using or consuming the same in his business shall be deemed to be engaged in the business of mining and producing coal, oil, natural gas, minerals, timber and other natural resource products for sale, profit or commercial use, and shall be required to make returns on account of the production of the business showing the gross proceeds or equivalent in accordance with uniform and equitable rules for determining the value upon which such privilege tax shall be levied, corresponding as nearly as possible to the gross proceeds from the sale of similar products of like quality or character by other taxpayers, which rules the Common Council shall prescribe, and the Common Council shall conform to any applicable rule as prescribed by the State Tax Commissioner.

(1970 Code, § 12-48) (Ord. passed 6-18-1968)

***Statutory reference:***

*Similar provisions relating to state business and occupation taxes, see W.V. Code, § 11-13-2*

**§ 112.05 SPECIFIC TAXES.**

(A) *Production of coal and other natural resource products.*

(1) Upon every person engaging or continuing within this city in the business of producing for sale, profit or commercial use any natural resource products, the amount of tax referred to in § 112.04 shall be equal to the value of the articles produced as shown by the producer, except as otherwise provided in this chapter, multiplied by the respective rates as

follows: coal, 0.4%; sand, gravel or other mineral product not quarried or mined, 1.5%; timber, 0.6%; natural gas and oil, 1.2%; all other natural resource products, 0.8%.

(2) The measure of the tax imposed by this section is the value of the entire production mined, severed or extracted from real estate situated within the city, regardless of the place of sale or the fact that delivery may be made to points outside of the city.

(1970 Code, § 12-49)

(B) *Manufacturing, compounding or preparing products; processing of poultry and turkeys.*

(1) Upon every person engaging or continuing within this city in the business of manufacturing, compounding or preparing for sale, profit, or commercial use, either directly or through the activity of others in whole or part, any article, substance, commodity or electric power not produced by public utilities taxable under other provisions of this chapter, the amount of the tax referred to in § 112.04 shall be equal to the value of the article, substance, commodity or electric power manufactured, compounded or prepared for sale, as shown by the gross proceeds derived from the sale thereof by the manufacturer or person compounding or preparing the same except as otherwise provided in this chapter, multiplied by a rate of 0.012%. The measure of this tax is the value of the entire product manufactured, compounded, or prepared in this city for sale, profit or commercial use, regardless of the place of sale or the fact that deliveries may be made to points outside the city. However, the dressing and processing of poultry and turkeys by a person, which poultry and turkeys are to be sold on a wholesale basis by such person shall not be considered as manufacturing or compounding, but the sale of these products on a wholesale basis shall be subject to the same tax as is imposed on wholesalers or jobbers as provided in division (C) of this section.

(2) It is further provided, however, that in those instances in which the same person partially manufactures products within this city and partially manufactures such products outside of this city, the

measure of his tax under this section shall be that proportion of the sale price of the manufactured product that the payroll cost of manufacturing within this city bears to the entire payroll cost of manufacturing the product; or, at the option of the taxpayer, the measure of his tax under this section shall be the proportion of the sales value of the articles that the cost of operations in the city bears to the full cost of manufacture of the articles. (1970 Code, § 12-50)

(C) *Business of selling tangible personal property.* Upon every person engaging or continuing within this city in the business of selling any tangible property whatsoever, real or personal, including the sale of food, and the services incident to the sale of food in hotels, restaurants, cafeterias, confectioneries and other public eating houses, except sales by any person engaging or continuing in the business of horticulture, agriculture or grazing, or of selling stocks, bonds or other evidences of indebtedness, there is likewise hereby levied, and shall be collected, a tax equivalent to 0.2% of the gross income of the business, except that in the business of selling at wholesale, the tax shall be equal to 0.06% of the gross income of the business. (1970 Code, § 12-51)

(D) *Public service or utility business.* Upon any person engaging or continuing within this city in any public service or utility business, except railroad, railroad car, express, pipeline, telephone and telegraph companies, water carriers by steamboat or steamship and motor carriers, there is likewise hereby levied and shall be collected taxes on account of the business engaged in equal to the gross income of the business multiplied by the respective rates as follows: electric light and power companies, on sales and demand charges for domestic purposes and commercial lighting, 1.6%; electric light and power companies (all other sales and demand charges) and natural gas companies, 1.2%; all other public service or utility businesses, 0.5%. The measure of the tax under this section shall include only gross income received from the supplying of public services. The gross income of the taxpayer from any other activity

shall be included in the measure of the tax imposed upon the appropriate section or sections of this chapter.  
(1970 Code, § 12-52)

(E) *Business of contracting.* Upon every person engaging or continuing within this city in the business of contracting, the tax imposed in § 112.04 shall be equal to 0.8% of the gross income of the business.  
(1970 Code, § 12-53)

(F) *Business of operating amusements.* Upon every person engaging or continuing within this city in the business of operating a theater, opera house, moving picture show, vaudeville, amusement park, dance hall, skating rink, race track, radio broadcasting station or any other place at which amusements are offered to the public, the tax shall be equal to 0.2% of the gross income of the business.  
(1970 Code, § 12-54)

(G) *Service business or calling, or rendering of professional personal services and activities, not otherwise specifically taxed.*

(1) Upon every person engaging or continuing within this city in any service business or calling not otherwise specifically taxed under this chapter there is likewise hereby levied and shall be collected a tax equal to 0.4% of the gross income of any such business.

(2) Upon every person engaging or continuing within this city in the business of rendering professional personal services and activities, as distinguished from businesses and callings taxed under the provisions of subsection (1) of this division, there is levied and shall be collected a tax equal to two-fifths of the rate established by the laws of the state upon such type of business.  
(1970 Code, § 12-55)

(H) *Business of furnishing property for hire.* Upon every person engaging or continuing within this city in the business of furnishing any real or tangible personal property, which has a tax situs in this city, or



any interest therein, for hire, loan, lease or otherwise, the tax shall be 0.4% of the gross income of any such activity. The term **TANGIBLE PERSONAL PROPERTY**, as used herein, shall not include money or public securities.

(1970 Code, § 12-56)

(I) *Small loan and industrial loan business.* Upon every person engaging or continuing within this city in the business of making loans of money, credit, goods or things in action, who because of such activity, is required under the provisions of the Code of West Virginia to obtain a license from the State Commissioner of Banking, and upon every industrial loan company, the tax shall be 0.4% of the gross income of any activity, notwithstanding any other provisions of this chapter.

(1970 Code, § 12-57)

(J) *Banks and financial institutions.*

(1) Pursuant to the provisions of the acts of the West Virginia Legislature (1971), W.V. Code, § 8-13-5A, there is levied and imposed upon every person engaging or continuing within the city in the business of banking, including banks, building and loan associations, federal savings and loan associations and industrial loan companies, a tax at the rate of 1% of the gross income of such business.

(2) As used in this section, the term **GROSS INCOME** means all receipts derived from interest, premiums, discounts, dividends, service fees or charges, commissions, fines, rents from real or tangible personal properties, royalties, charges for bookkeeping or data processing, receipts from check sales, charges or fees, and receipts from sales of tangible personal properties.

(3) Exempted from the foregoing definition of gross income and the tax imposed by this chapter are the following:

(a) Interest received on the obligations of the United States, agencies and instrumentalities;

(b) Interest received on the obligations on this or any other state, territory of possession of the United States or any political subdivision thereof; and

(c) Interest received on investments or loans primarily secured by first mortgages or deeds of trust on residential property occupied by nontransients; provided, that all interest mentioned in (c) hereof shall be reported on the taxpayer's return and deducted thereon in the computation of tax.

(1970 Code, § 12-57.1)

(Ord. passed 6-18-1968; Ord. passed 7-2-1968; Ord. passed 12-6-1969)

***Statutory reference:***

*State law limiting tax rates authorized for municipalities on certain businesses to rates in effect on January 1, 1959, see W.V. Code, §§ 8-13-5 and 11-13-25*

*State tax on such service businesses and callings, see W.V. Code, § 11-13-2H*

*State tax on similar businesses, see W.V. Code, §§ 11-13-2D, 11-13-2E*

**§ 112.06 ADDITIONAL TAXES.**

Upon every person engaging or continuing within this city on or after January 1, 1978 in any business previously subject to tax under the provisions of divisions (A) through (J), inclusive, there is hereby imposed an additional tax or surtax equal to 25% of the rate now imposed and prescribed; provided, that no business previously exempt from the payment of such tax by virtue of any exemption set forth in this code, as amended to November 15, 1977, the laws of this state or of the United States shall be made subject to tax by this amendment.

(1970 Code, § 12-57.2) (Ord. passed 12-13-1977)

**§ 112.07 EXEMPTIONS.**

The provisions of this chapter shall not apply to:

(A) Insurance companies which pay the state a tax upon premiums; provided, that this exemption

shall not extend to that part of the gross income of insurance companies which is received for the use of real property, other than property in which any such company maintains its office in this city, whether such income be in the form of rentals or royalties;

(B) Nonprofit cemetery companies organized and operated for the exclusive benefit of their members;

(C) The societies, organizations and associations, fraternal or otherwise, organized or operated for the exclusive benefit of their members and not for profit; provided, that this exemption shall not extend to that part of the gross income of such association, organization or society arising from the sale of alcoholic liquor, food and related services which are licensed as private groups as provided under W.V. Code, Chapter 60, Art. 7 and the exemption shall further not apply to organizations or cooperative associations organized under the provisions of W.V. Code, Chapter 19, Art. 4.

(1970 Code, § 12-58) (Ord. passed 6-18-1968; Am. Ord. passed 5-4-1971)

***Statutory reference:***

*Similar state law as to exemptions from state tax,  
see W.V. Code, § 11-13-3*

**§ 112.08 INDUSTRIAL TAXPAYERS.**

(A) There shall be allowed to all new and expanding industrial taxpayers, as hereinafter defined, a credit against business and occupation taxes imposed by the preceding sections of this chapter. The amount of such credit shall be equal to 100% of such taxes for and during the first year of operation of each such taxpayer, 75% of such taxes for and during the second year of operation of each such taxpayer, 50% of such taxes for and during the third year of operation of each such taxpayer, 25% of such taxes for and during the fourth year of operation of each such taxpayer, and beginning with the fifth year of operation of each such taxpayer the credits herein allowed shall cease to exist and each such taxpayer shall pay the full rate of business and occupation tax applicable to such business and as elsewhere in this chapter imposed.

(B) **INDUSTRIAL TAXPAYER**, as such term is used herein, is defined as a new business which will regularly employ not less than 6 persons or, by virtue of its planned expansion, will regularly employ an additional 6 persons and can establish and document an actual investment in such new business or expansion of business in a total sum of not less than \$500,000.

(C) The provisions of this section shall apply to all such taxpayers as herein defined which commence actual business operations on or after April 1, 1989 and so long as the ordinance in this section shall remain in force and effect.

(Ord. passed 4-18-1989)

#### **§ 112.09 NEWLY ANNEXED TAXPAYERS.**

(A) There shall be allowed to all newly annexed taxpayers, as hereinafter defined, a credit against business and occupation taxes imposed by the preceding section of this chapter. The amount of such credit shall be equal to 100% of such taxes for and during the first year of operation of each such taxpayer, 75% of such taxes for and during the second year of operation of each such taxpayer, 50% of such taxes for and during the third year of operation of each such taxpayer, 25% of such taxes for and during the fourth year of operation of each such taxpayer, and beginning with the fifth year of operation of each such taxpayer the credits herein allowed shall cease to exist and each such taxpayer shall pay the full rate of business and occupation tax applicable to such business and as elsewhere in this chapter imposed.

(B) **NEWLY ANNEXED TAXPAYERS**, as such term is used in this section, is defined as those businesses located within the boundaries of the area of land annexed into the corporate limits of Ravenswood by order of the County Commission of Jackson County, West Virginia, dated February 21, 1989.

(C) The provisions of this section shall apply to all such taxpayers as herein defined which were in actual business operation on February 21, 1989.

(Ord. passed 5-2-1989)

#### **§ 112.10 APPROVAL OF TAX INCENTIVES FOR ECONOMIC PROJECTS; EXEMPTION FROM BUSINESS AND OCCUPATION TAX.**

(A) Any party who desires to enter into an agreement (herein the "Agreement") with the city and the Development Authority and pursuant to the Agreement to commit to an expenditure of at least \$5,000,000 in the development or construction started on or after January 1, 2002 of such new and/or remodeled business locations shall be eligible for the abatement of all or a portion of any business and occupation taxes relating to any construction, rental or leasing activities for all or any portion of such new and/or remodeled business locations for a term to be initially determined by the city Development Authority and then recommended to the Common Council for its consideration and disposition.

(B) Upon the recommendation of the city Development Authority, and the concurrence of the Common Council, the Mayor shall be authorized and directed to sign the Agreement on behalf of the city.

(Ord. passed - -)

#### **§ 112.11 COMPUTATION AND PAYMENT OF TAX; SEMIANNUAL RETURNS.**

The taxes levied under this chapter shall be payable in semiannual installments on or before the expiration of 30 days from the end of 6 months in which they accrue. The taxpayer shall, within 30 days from the expiration of 6 months, make out a return upon a form prescribed by the collector, showing the gross proceeds of sales, or gross income of business, trade, calling or personal professional services and activities and compute the amount of the tax for which he is liable for such 6 months, verify the return by oath and mail it, together with a proper remittance in the form required by § 112.16 for the amount of tax, to the office of the collector; provided,

that the collector may, in his sound discretion and for good cause, allow less frequent returns but at least 1 return annually; provided further, that the collector, if he deems it necessary to insure payment of the tax, may

require return and payment under this section for other than 6 month periods. If for any reason it is not practicable for the individual taxpayer to make the oath, it may be made by any duly authorized agent. (1970 Code, § 12-59) (Ord. passed 6-18-1968; Ord. passed 5-4-1971)

***Statutory reference:***

*Similar state law as to computation and payment  
of state tax, see W.V. Code, § 11-13-4*

**§ 112.12 ERRONEOUS COMPUTATION.**

If the taxpayer shall make any clerical error which shall be apparent on the face of the return in computing the tax assessable against him, the collector shall correct such error or reassess the proper amount of taxes and notify the taxpayer of his action by mailing him promptly a copy of the corrected assessment, and any additional tax for which such taxpayer may be liable shall be paid within 10 days after the receipt of such statement. If the amount already paid exceeds that which should have been paid on the basis of the tax so recomputed, the excess so paid shall be immediately refunded to the taxpayer upon the request of the collector and shall be payable out of any funds available for the purpose. The taxpayer may, at his election, apply an overpayment credit to taxes subsequently accruing under this chapter.

(1970 Code, § 12-60) (Ord. passed 6-18-1968)

**§ 112.13 DUTY OF TAXPAYERS TO MAINTAIN RECORDS FOR CITY TAX PURPOSES;  
PRESERVATION OF RECORDS.**

A separate and complete record of the business, calling, service and professional activities of each taxpayer conducted within this city shall be kept at his place of business and shall not be combined or confused with records of business carried on at other places. The collector may require the preservation of records for a period not exceeding 5 years.

(1970 Code, § 12-61) (Ord. passed 6-18-1968)

**§ 112.14 PROCEDURE UPON FAILURE OF TAXPAYER TO MAKE COMPLETE RETURN, FREE OF DEFICIENCIES; RIGHT OF CITY TO CONDUCT INVESTIGATION.**

(A) If any person fails or refuses to make a return, either in whole or part, or if the collector has reasonable grounds to believe that any return made is incorrect or is so deficient as not to form the basis of a satisfactory assessment of the tax, he may proceed as he deems best to obtain information on which to base a correct assessment of the tax. The collector may by himself or his duly appointed agent make examination of the books, records and papers, and audit the accounts of any such person, including bank accounts, and may take the evidence, on oath, of any person who he may believe shall be in possession of any relevant information. As soon as possible after procuring such information as he may be able to obtain as to any person making an incomplete or incorrect return or failing or refusing to make a return, the collector shall proceed to assess the tax and shall notify the person assessed of the amount of the tax. The assessment of the tax by the collector shall be final as to any person refusing to make a return.

(B) If any person, having made the return and paid the tax as provided by this chapter, feels aggrieved by the assessment so made upon him by the collector, he may apply to the Common Council, by petition in writing, within 30 days after notice is mailed to him by the collector for a hearing and correction of the amount of the tax so assessed upon him by the collector, in which petition shall be set forth the reasons why such hearing should be granted and the amount by which such tax should be reduced. The Common Council shall promptly consider such petition and may grant such hearing or deny it. If denied, the petitioner shall be forthwith notified thereof; if granted, the Council shall notify the petitioner of the time and place fixed for such hearing. After such hearing, the Common Council may make such order in the matter as may appear to it just and lawful and shall furnish a copy of such order to the petitioner. Any person improperly charged with and required to pay any tax may recover the amount paid,

together with interest, in any civil action against the city. It shall not be necessary for the taxpayer to protest against the payment of the tax or to make any demand to have the same refunded to maintain such suit.

(C) Nothing in this section shall be construed so as to deny to any person any right provided by law to appeal to or seek an injunction from any court or officer having jurisdiction in the premises.

(1970 Code, § 12-62) (Ord. passed 6-18-1968)

***Statutory reference:***

*State law as to appeals from State Tax*

*Commissioner with respect to state taxes, see*

*W.V. Code, § 11-13-8*

**§ 112.15 TAX CUMULATIVE.**

The tax imposed by this chapter shall be in addition to all other licenses and taxes levied by law, this code or other ordinance as a condition precedent to engaging in any business, trade, calling or profession. A person exercising a privilege taxable under this chapter, subject to the payment of all licenses and charges which are condition precedent to exercising the privilege taxed, may exercise the privilege for the current tax year upon the condition that he shall pay the tax accruing under this chapter.

(1970 Code, § 12-63) (Ord. passed 6-18-1968)

***Statutory reference:***

*Similar state law as to state taxes, see*

*W.V. Code, § 11-13-10*

**§ 112.16 MANNER OF PAYMENT; RECEIPTS; DISPOSITION OF AND ACCOUNTING FOR REVENUE RECEIVED BY CITY.**

All remittances of taxes imposed by this chapter shall be made to the collector by bank draft, certified check, cashier's check, money order or certificate of deposit; the collector shall issue his receipts therefor to the taxpayers and pay all money so received by him



into the City Treasury and account therefor as provided by law.  
(1970 Code, § 12-64) (Ord. passed 6-18-1968)

***Statutory reference:***

*Corresponding provision of state law as to  
payments of state taxes, see W.V. Code,  
§ 11-13-1*

**§ 112.17 TAX IS A DEBT; TAX LIEN; PENALTIES FOR NONPAYMENT.**

(A) A tax due and unpaid under this chapter shall be a debt due the city and it shall be a personal obligation of the taxpayer and a lien upon all property used in the business or occupation upon which such tax is imposed; provided, that no such tax lien shall be enforceable on a purchaser (including lien creditor) for valuable consideration without notice, unless docketed in the office of the County Clerk before a deed therefor to such purchaser is delivered for record to the County Clerk.

(B) A penalty of 5% of the tax shall be added for any default for 30 days or less, and for each succeeding 30 days elapsing before payment there shall be an additional penalty of 1%, of all which penalties shall be secured by the lien herein provided; except, that if the failure to pay is due to fraud or intent to evade this chapter or any rule or regulation promulgated thereunder or in implementation thereof, there shall be added an additional penalty of 25% of the tax, exclusive of penalties.

(1970 Code, § 12-65) (Ord. passed 6-18-1968)

***Charter reference:***

*Authority of city to impose tax liens, see Charter,  
§ 27*

**§ 112.18 POWERS AND DUTIES OF COLLECTOR TO COLLECT TAXES AND PENALTIES.**

The collector shall, personally or by a duly constituted deputy, assistant, agent or representative, collect all taxes due under this chapter, together with all accrued penalties. In the performance of this duty

the collector shall have all powers for the collection of city taxes authorized by state law, the City Charter, this code and other ordinances, including but not limited to the institution of proceedings on behalf of the city in courts of competent jurisdiction or before officers or agencies having competent jurisdiction.  
(1970 Code, § 12-66) (Ord. passed 6-18-1968)

***Statutory reference:***

*Certain powers of State Tax Commissioner to  
collect corresponding state taxes, see  
W.V. Code, § 11-13-13*

**§ 112.19 PAYMENT WHEN PERSON SELLS  
OUT OR QUILTS BUSINESS; LIEN; LIABILITY OF SUCCESSOR.**

The tax imposed by this chapter shall be a lien upon the property of any person subject to the provisions thereof who shall sell out his business or stock of goods or shall quit his business, calling, service or profession, and each such person shall be required to make the return provided for under § 112.11 within 30 days after the date he sold out his business or stock of goods or quit his aforesaid occupation, and his successor in business shall be required to withhold sufficient of the purchase money to cover the amount of such taxes due and unpaid until such time as the former owner shall produce a receipt from the collector showing that the taxes have been paid. If the purchaser of a business or stock of goods shall fail to withhold purchase money as above provided, and the taxes shall be due and unpaid after the 30 day period allowed, he shall be personally liable for the payment of the taxes accrued and unpaid on account of the operation of the business by the former owner.  
(1970 Code, § 12-67) (Ord. passed 6-18-1968)

**§ 112.20 TAX PAYMENT PREREQUISITE TO SETTLEMENT BY CITY WITH CONTRACTORS.**

All officers, employees and agents making contracts on behalf of the city and all city disbursement officers shall withhold payment in the

final settlement of such contracts until the receipt of a certificate from the collector to the effect that all taxes levied or accrued under this chapter against the contractor with respect to such contracts have been paid.  
(1970 Code, § 12-68) (Ord. passed 6-18-1968)

#### **§ 112.21 RECORDING OF TAX ASSESSED AND LIEN CREATED THEREBY; ISSUANCE AND RECORDING OF CERTIFICATE UPON PAYMENT OF TAX.**

The collector, for the more effective collection of any tax imposed by this chapter, may file with the Clerk of the County Court a certified copy of an assessment of taxes payable by any person, for recordation, for the purpose of giving notice of the lien created by this chapter upon all lands of the taxpayer located in the city as against all parties whose interest arise after such recordation. Upon payment of taxes delinquent under this chapter, the lien of which shall have been recorded, the collector shall certify in duplicate the fact and amount of payment and the balance due, if any, and shall forward the certificates, one to the taxpayer and one to the Clerk of the County Court for recording in the book in which releases are recorded. From the date that such certificate is admitted to record the land of the taxpayer in the city shall be free from any lien for taxes under this chapter accrued to the date that the certificate was issued.

(1970 Code, § 12-69) (Ord. passed 6-18-1968)

##### ***Statutory reference:***

*Recording of state taxes assessed and duties of  
State Tax Commission and County Clerks, see  
W.V. Code, § 11-13-19*

#### **§ 112.22 COLLECTION BY DISTRAINT.**

The collector may distrain upon any goods, chattels or intangibles represented by negotiable evidences of indebtedness of any taxpayer delinquent under this chapter for the amount of all taxes and penalties accrued and unpaid hereunder.

(1970 Code, § 12-70) (Ord. passed 6-18-1968)

#### **§ 112.98 VIOLATIONS.**

It shall be unlawful for any person to fail to make any return required by this chapter; or to make any false or fraudulent return or false statement in any return, with intent to defraud the city or to evade the paying of the tax, or any part thereof, or any penalty imposed by this chapter; or for any person to aid or abet another in any attempt to evade the payment of any tax or penalty or any part thereof imposed by this chapter; or for any officer or employee of any corporation to make or permit to be made for any corporation or association any false return, or any false statement in any return required in this chapter, with the intent to evade the payment of any tax or penalty hereunder. In addition to any penalty which may be imposed for any violation of this article, any person who shall knowingly swear to or verify any false or fraudulent statement, with the intent aforesaid, shall be guilty of the offense of false swearing. Any corporation for which a false return, or a return containing a false statement as aforesaid, shall be made, shall be jointly and severally guilty with the person making such false return or return containing such false statement and shall be subject to such punishment as the court may lawfully impose upon it.

(1970 Code, § 12-71) (Ord. passed 6-18-1968) Penalty, see § 10.99

## CHAPTER 113: ALCOHOLIC BEVERAGES

### Section

#### *General Provisions*

- 113.01 Tax imposed on purchase of wine sold at and by Alcohol Beverage Commission or licensed private retailers to public
- 113.02 Tax imposed on purchase price of intoxicating liquors sold at state store
- 113.03 Nonintoxicating beer
- 113.04 License and annual fee for sale or distribution of wines
- 113.05 Liquor license fee

#### *Private Clubs Holding State License to Sell Hard Liquors*

- 113.20 License fee imposed; amounts
- 113.21 Reduced license fee upon licenses issued between January 1 and July 1
- 113.22 Duty of local holders of state licenses to report to City Clerk at stated times to display license and pay city license fee; prohibited liquor sales when city fee not paid
- 113.23 City Clerk to maintain records of state licenses; receipts for city fees to be issued; duty of licensees to display city receipts
- 113.24 Disposition of license fees
- 113.25 Sale of intoxicating liquor prohibited upon revocation by state of license therefor
- 113.26 License fees not refundable or transferable

113.99 Penalty

**Editor's note:**

*A certified copy of the ordinance from which this section derives has been provided to the State Alcohol Beverage Control Commissioner, as required by W.V. Code, § 8-13-7, which further provides that the city tax shall be added to and collected with the purchase price.*

**GENERAL PROVISIONS**

**§ 113.01 TAX IMPOSED ON PURCHASE OF WINE SOLD AT AND BY ALCOHOL BEVERAGE COMMISSION OR LICENSED PRIVATE RETAILERS TO PUBLIC.**

Pursuant to the provision of W.V. Code, Chapter 8, Art. 13, § 7, as amended, there is imposed a tax of 3% of the purchase price of any and all wine sold within the city to the public by the Alcohol Beverage Control Commission or licensed private retailers; provided, however, that such tax shall not apply to wine sold by or purchased from holders of a license issued under the provisions of W.V. Code, Chapter 60, Art. 7. The tax shall be levied upon the purchaser and shall be added to and collected with the price of purchase.  
(Ord. passed 6-3-1981)

**§ 113.02 TAX IMPOSED ON PURCHASE PRICE OF INTOXICATING LIQUORS SOLD AT STATE STORE.**

Pursuant to W.V. Code, Chapter 8, Art. 13, § 7, as last amended, there is imposed a tax of 5% of the retail purchase price of any and all intoxicating liquors purchased from the Alcohol Beverage Control Commission or from any person licensed to sell wine at retail to the public under the provisions of W.V. Code, Chapter 60, Art. 8 within the corporate boundaries of the municipality. Such tax shall be levied upon the purchaser of said intoxicating liquor or wine and shall be added to any collected with the retail purchase price of such intoxicating liquor or wine. Such tax shall be received by the municipality from the State Treasury pursuant to the rules and regulations adopted by the Alcohol Beverage Control Commissioner; provided, however, that such tax shall not be collected on intoxicating liquors, other than wine sold by or purchased from holders of a license issued under the provisions of W.V. Code, Chapter 60, Art. 7; provided further, such tax shall be collected upon all sales of wine to holders of a license issued under the provision of W.V. Code, Chapter 60, Art. 7 from a wine distributor licensed pursuant to the provisions of W.V. Code, Chapter 60, Art. 3.  
(1970 Code, § 3-1) (Am. Ord. passed 6-3-1981; Am. Ord. 84-2, passed 3-20-1984)

**§ 113.03 NONINTOXICATING BEER.**

(A) *Annual license required of retailers, distributors and brewers; license fee; issuance and display of license.* Every person licensed by the state pursuant to the provisions of W.V. Code, §§ 11-16-1 through 11-16-20 as a retailer, distributor or brewer of nonintoxicating beer and whose licensed place of business is situated within this city shall pay to the city an annual license tax in an amount equal to that levied by the state for such business. Upon the payment of each such annual license tax to the city the licensee shall be issued a city license corresponding to the state license, which shall be displayed at all times in a conspicuous place upon the premises thereby licensed. (1970 Code, § 3-2)

(B) *License not transferable and license taxes not refundable; exceptions.* City licenses issued pursuant to the provisions of division (A) of this section shall not be transferable, nor shall any license tax paid pursuant to

division (A) of this section be

refundable, if the licensee should cease to do business under such license; provided, that upon the death or incapacity of a natural person who is such a licensee, such license may be transferred to an heir or personal representative or, in the discretion of the Common Council, the amount of the license tax already paid which is attributable to that portion of the license year remaining after the death or incapacity of such licensee may be refunded to his heirs or personal representatives.  
(1970 Code, § 3-3)

(C) *Unlawful acts of licensees; penalties.*

(1) It shall be unlawful:

(a) For any licensee, his servants, agents or employees to sell, give or dispense, or any individual to drink or consume, in or on any licensed premises or in any rooms directly connected therewith, nonintoxicating beer on weekdays between the hours of 1:00 a.m. and 7:00 a.m., or before 1:00 p.m. on any Sunday, except in private clubs licensed under the provisions of W.V. Code, Chapter 60, Art. 7, where the hours shall conform with the hours of alcoholic liquors;

(b) For any licensee, his servants, agents or employees, to sell, furnish or give any nonintoxicating beer to any person visibly or noticeably intoxicated, to any insane person, to any habitual drunkard, or to any person under the age of 18 years;

(c) For any distributor to sell or offer to sell, or any retailer to purchase or receive, any nonintoxicating beer except for cash; and no right of action shall exist to collect any claims for credit extended contrary to the provisions of this subdivision. Nothing herein contained shall prohibit a licensee from crediting to a purchaser the actual price charged for packages or containers returned by the original purchaser as a credit on any sale or from refunding to any purchaser the amount paid or deposited for such containers when title is retained by the vendor;

(d) For any brewer or distributor to transport or deliver nonintoxicating beer to any retail licensee on Sunday;

(e) For any brewer or distributor to give, furnish, rent or sell any equipment, fixtures, signs or supplies directly or indirectly or through a subsidiary or affiliate to any licensee engaged in selling products of the brewing industry at retail, or to offer any prize, premium, gift, or other similar inducement, except advertising matter of nominal value, to either trade or consumer buyers; provided, that nothing contained herein shall prohibit a distributor from offering for sale or renting tanks of carbonic gas;

(f) For any licensee to transport, sell, deliver or purchase any nonintoxicating beer or product of the brewing industry upon which there shall appear a label or other informative data which in any manner refers to the alcoholic content of such beer or product of the brewing industry, or upon the label of which there appears the word or words "strong," "full strength," "extra strength," "prewar strength," "high test" or other similar expressions bearing upon the alcoholic content of such product of the brewing industry, or which refers in any manner to the original alcoholic strength, extract or balling proof from which such beverage was produced, except that such label shall contain a statement that the alcoholic content thereof does not exceed 3.2% by weight;

(g) For any licensee to permit in his premises any lewd, immoral or improper entertainment, conduct or practice;

(h) For any licensee except the holder of a license to operate a private club issued under the provisions of W.V. Code, Chapter 60, Art. 7, to possess a federal license, tax receipt or other permit entitling, authorizing or allowing such licensee to sell liquor or alcoholic drinks;

(i) For any licensee to obstruct the view of the interior of his premises by enclosure, lattice, drapes or any means which would prevent plain view of the patrons occupying such premises.



The interior of all licensed premises shall be adequately lighted at all times; provided, that provisions of this subdivision shall not apply to the premises of a Class B retailer or to the premises of a private club licensed under the provisions of W.V. Code, Chapter 60, Art. 7;

(j) For any licensee to manufacture, import, sell, trade, barter, possess, or acquiesce in the sale, possession or consumption of any alcoholic liquors on the premises covered by such license or on premises directly or indirectly used in connection therewith; provided, that the prohibitions contained in this subdivision with respect to the selling or possessing or to the acquiescence in the sale, possession or consumption of alcoholic liquors shall not be applicable with respect to the holder of a license to operate a private club issued under the provisions of W.V. Code, Chapter 60, Art. 7;

(k) For any licensee to print, paint or place upon the door, window, or in any other public place in or about the premises the word "saloon" or word of similar character or nature or for the word "saloon" or similar words to be used in any advertisement by the licensee;

(l) For any retail licensee to sell or dispense nonintoxicating beer purchased or acquired from any source other than a licensed distributor or brewer under the laws of this state;

(m) For any licensee to permit loud, boisterous or disorderly conduct of any kind upon his premises or to permit the use of loud musical instruments if either or any thereof may disturb the peace and quietude of the community wherein such business is located; provided, that no licensee shall have in connection with his place of business any loudspeaker located on the outside of the licensed premises that broadcasts or carries music of any kind;

(n) For any person whose state license has been revoked, as provided in W.V. Code, Chapter 11, Art. 16, to obtain employment with any retailer within the period of 1 year from the date of such revocation or for any retailer to employ knowingly any such person within such time;

(o) For any distributor to sell, possess for sale, transport or distribute nonintoxicating beer except in the original container;

(p) For any licensee to permit any act to be done upon the licensed premises, the commission of which constitutes a crime under the laws of this state;

(q) For any Class B retailer to permit the consumption of nonintoxicating beer upon his licensed premises;

(r) For any licensee, his servants, agents, or employees, or for any licensee by or through such servants, agents or employees, to allow, suffer or permit any person under the age of 18 years to loiter in or upon any licensed premises; except, however, that the provisions of this subdivision shall not apply where such person under the age of 18 years is in on or upon such premises in the immediate company of his parent or where and while such person under the age of 18 years is in, on or upon such premises for the purpose of and actually making a lawful purchase of any items or commodities therein sold or for the purchase of and actually receiving any lawful service therein rendered, including the consumption of any item of food, drink or soft drink therein lawfully prepared and served or sold for consumption on such premises.

(2) Any person who violates any provision of this division shall, upon conviction, be punished for each such offense by a fine of not less than \$25 nor more than \$500, or imprisoned for not more than 30 days, or by both such fine and imprisonment in the discretion of the court.

(1970 Code, § 3-4)

***Statutory reference:***

*Authority of city to enact ordinance for  
enforcement of State Nonintoxicating Beer Act,*

*see W.V. Code, § 11-16-17*

*Authority of city to impose license tax on dealers  
in nonintoxicating beer, see W.V. Code,  
§ 11-16-17*

*Similar state law, see W.V. Code, § 11-16-13*

**§ 113.04 LICENSE AND ANNUAL FEE FOR SALE OR DISTRIBUTION OF WINES.**

(A) Following the issuance of a state license for the sale or distribution of wine to a licensee, as that term is defined under state law, the wine licensee shall file an application with the City Clerk for the issuance of a license for the sale or distribution of wine within the corporate limits of the city. No such wine licensee shall engage in the sale or distribution of wine within the corporate limits of the city until such time as the office of the City Clerk has issued the applicable license to such wine licensee.

(B) The annual license period for the distribution of sale of wine shall be from the first day of July to the thirtieth day of June of the following year. The annual license fee for the initial year of issuance shall be prorated based upon the number of days remaining between the date of issuance and the following June 30. The annual license fees for licenses issued under this section are as follows:

(1) Twenty-five hundred dollars per year for a distributor's license and each separate warehouse or other facility from which a distributor sells, transfers or delivers wine shall be separately licensed and there shall be collected with respect to each such location the annual license fee of \$2,500 as herein provided.

(2) One-hundred fifty dollars per year for a retailer's license.

(3) Fifty dollars per year for a wine tasting license.

(4) Fifty dollars for each sales representative of or employed by a licensed distributor.

(5) Two-hundred fifty dollars per year for a private wine restaurant license, and each separate restaurant from which a licensee sells wine shall be separately licensed and there shall be collected with respect to each such location the annual license fee of \$250 as herein provided.

(6) Twenty-five dollars per year for a West Virginia wine retailers license. The holder of such license may only sell wine produced by West Virginia farm wineries as defined by W.V. Code, § 60-1-5a and is subject to all other restrictions of a wine retailer as outlined in the section.

(C) All wine licenses shall expire on June 30 of each year and may be renewed only upon the submission to the City Clerk's office of the same information required for the issuance of the license and such additional information as may be requested by the City Clerk's office on such forms and by such date as may be prescribed by the City Clerk, together with the payment to the city of the applicable annual wine license fee required under this section.

(D) No person may distribute or sell wine at any location if the license application to such location has been suspended or revoked or has expired.

(E) (1) The tax imposed by this section, if not paid when due, shall bear interest at the rate of 6% per annum from the due date of the return. Each assessment or deficiency notice made by the City Clerk's office shall bear interest at the rate of 6% per annum. In all cases of delinquency or extensions of time, interest shall be assessed and collected.

(2) In the case of any failure to make or file a return or whenever the full amount of the tax on any portion or deficiency thereof has not been paid, as required by this section, unless it be shown that such failure is due to reasonable cause and not due to willful neglect, there may be added to the tax 5% for each additional 30 days or fraction thereof during which failure shall continue, not to exceed 35% in the aggregate. If no tax is due, the penalty shall be \$25 per month or fraction thereof for failure to file a tax return.

(3) In the case of the filing of any false or fraudulent return with intent to evade the tax imposed by this section, or in the case of a willful failure to file a return with intent to evade the tax, or the filing of a false claim for credit or refund, there shall be added

to the tax due a penalty in an amount equal to 100% of the tax due. The burden of proving fraud, willfulness, or intent to evade tax shall be upon the City Clerk.  
(Ord. passed 6-4-1991)

#### **§ 113.05 LIQUOR LICENSE FEE.**

(A) As the State of West Virginia shall require a retail outlet to obtain a liquor license from the state, the city shall also issue liquor licenses subsequent to the retail outlet receiving a liquor license from the state. After the issuance of a state liquor license, the applicant must then file an application with the Clerk/Treasurer of the city.

(B) The annual retail license period shall be from the July 1 to June 30 of the following year. The annual retail license fee, if an applicant holds a Class A retail license under state law, shall be the sum of \$1,500 per outlet. The annual retail license fee if an applicant holds a Class B retail license shall be \$500 per outlet. The annual retail license fee for the initial year of issuance shall be prorated based on the number of days remaining between the date of issuance and the following June 30.

(C) A retail license shall expire on June 30 of each year and may be renewed only upon the submission to the Clerk/Treasurer of the city.

(D) No person may sell liquor at any retail outlet if the retail license applicable to such outlet has been suspended or revoked or has expired.

(E) Violations of the provisions of this section shall be punishable by a fine of \$500 and/or confinement to jail for up to 30 days.  
(Ord. passed 2-19-1991)

***PRIVATE CLUBS HOLDING STATE  
LICENSE TO SELL HARD LIQUORS***

**§ 113.20 LICENSE FEE IMPOSED; AMOUNTS.**

(A) All private clubs, as defined in W.V. Code, § 60-7-2, the premises of which are situated within the corporate limits of the city and which are operated for a profit inuring to the benefit of their owners, shall pay to the city an annual license fee for a license issued under the provisions of W.V. Code, Chapter 60, Art. 7 as follows:

(1)  
For a licensee having 100 members or less:  
\$500;

(2)  
For a licensee having more than 100 members but less than 300 members:  
\$750;

(3)  
For a licensee having more than 300 members but less than 600 members:  
\$1,000;

(4)  
For a licensee having 600 or more members:  
\$1,500.

(B) Provided, that any private club which is owned and operated by a fraternal or service group or organization and which is not operated for a profit shall pay to the city an annual license fee for a license issued under the provisions of W.V. Code, Chapter 60, Art. 7 as follows:

(1)  
For a licensee having 100 members or less:  
\$250;

(2)  
For a licensee having more than 100 members but less than 300 members:  
\$375;

(3)  
For a licensee having more than 300 members but less than 600 members:  
\$500;

(4)  
For a licensee having 600 members or more:  
\$750.

(1970 Code, § 3-5) (Ord. passed 7-18-1967)

***Statutory reference:***

*Authority of city to levy and collect a fee from any private club licensee whose premises are within the city, see W.V. Code, §§ 8-13-7 and 60-7-7*  
*State licenses for private clubs, see W.V. Code, §§ 60-7-1 et seq.*

**§ 113.21 REDUCED LICENSE FEE UPON LICENSES ISSUED BETWEEN JANUARY 1 AND JULY 1.**

The fee for any such private club licensee whose license was issued following January 1 of any year and expiring on June 30 of such year shall be one-half of the fee specified in § 113.20.

(1970 Code, § 3-6) (Ord. passed 7-18-1967)

**§ 113.22 DUTY OF LOCAL HOLDERS OF STATE LICENSES TO REPORT TO CITY CLERK AT STATED TIMES TO DISPLAY LICENSE AND PAY CITY LICENSE FEE; PROHIBITED LIQUOR SALES WHEN CITY FEE NOT PAID.**

Each licensee holding a state license issued under the provisions of W.V. Code, Chapter 60, Art. 7 for a private club, the premises of which are situated in this city, shall, upon first obtaining such license and at the time of each renewal thereof, report to the City Clerk and display such state license to him and pay the city license fee which is imposed upon him by this chapter; it shall be unlawful for any such licensee or any officer, member or employee of any private club so licensed, the premises of which being situated in this city, to sell intoxicating liquor upon such premises unless all fees due to the city, as provided in this chapter, have then been paid.

(1970 Code, § 3-7)

**§ 113.23 CITY CLERK TO MAINTAIN RECORDS OF STATE LICENSES; RECEIPTS FOR CITY FEES TO BE ISSUED; DUTY OF LICENSEES TO DISPLAY CITY RECEIPTS.**

The City Clerk, upon display to him of a state private club license, shall make a record thereof and preserve such record in his office, and, upon payment to him of the city license fee as prescribed in this chapter, he shall issue to the licensee a receipt for such payment, which shall indicate the amount paid, the type of private club and its address within the city, and expiration date of the license for which such city license fee has been paid. It shall be the duty of each such licensee to maintain such city receipt on display in a conspicuous place on the premises of the private club to which it relates.

(1970 Code, § 3-8)

**§ 113.24 DISPOSITION OF LICENSE FEES.**

All private club license fees imposed by this chapter shall be received by the City Clerk and paid into the City General Fund and credited to the general revenue funds thereof.

(1970 Code, § 3-9) (Ord. passed 7-18-1967)

**§ 113.25 SALE OF INTOXICATING LIQUOR PROHIBITED UPON REVOCATION BY STATE OF LICENSE THEREFOR.**

It shall be unlawful for any person to sell intoxicating liquor on any premises within the city after the revocation by the state of a private club license to sell intoxicating liquor on such premises.

(1970 Code, § 3-10) (Ord. passed 7-18-1967) Penalty, see § 113.99

**§ 113.26 LICENSE FEES NOT REFUNDABLE OR TRANSFERABLE.**

License fees paid to the city pursuant to this chapter shall not be refundable should the licensee



cease to operate as a private club, nor shall fees paid by or on behalf of any licensee be transferred to the credit of another licensee.

(1970 Code, § 3-11) (Ord. passed 7-18-1067)

#### **§ 113.99 PENALTY.**

Any private club and any officer or employee thereof convicted of a violation of this chapter shall be fined not less than \$50 nor more than \$500.

(1970 Code, § 3-12) (Ord. passed 7-18-1967)

**TITLE XIII: GENERAL OFFENSES**

Chapter

**130. GENERAL OFFENSES**



## CHAPTER 130: GENERAL OFFENSES

### Section

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## ***GENERAL PROVISIONS***

### **§ 130.01 ATTEMPTS; AIDING AND ABETTING.**

(A) It shall be unlawful for any person to attempt to commit any act which is prohibited by this code or other ordinance or by any rule, regulation, order or notice duly promulgated or given pursuant to authority thereof; and it shall be unlawful for any person to aid or abet the commission or attempted commission of any act which is prohibited by this code or other ordinance or by any rule, regulation, order or notice duly promulgated or given pursuant to authority thereof.

(B) It shall be unlawful for any person to attempt to avoid doing any act which is required by this code or other ordinance or by any rule, regulation, order or notice duly promulgated or given pursuant to authority thereof; and it shall be unlawful for any person to aid or abet the avoidance or attempted avoidance of any act which is required by this code or other ordinance or by any rule, regulation, order or notice duly promulgated or given pursuant to authority thereof.

(1970 Code, § 13-2) Penalty, see § 130.99

#### ***Statutory reference:***

*Attempts, see W.V. Code, § 61-11-8*

### **§ 130.02 FOOD AND DRINK NOT TO BE SOLD, SERVED, IF CONTAMINATED OR UNWHOLESOME.**

It shall be unlawful for any person knowingly to sell, expose for sale or serve to any other person any contaminated or unwholesome food or drink.

(1970 Code, § 13-19) Penalty, see § 130.99

**§ 130.03 POLLUTION OF WATER SOURCES; TAMPERING WITH PUBLIC WELLS, PUMPS AND THE LIKE.**

It shall be unlawful for any person knowingly to pollute the water in any well, cistern, reservoir or

other source of water supply in the city, or to cast therein sticks, stones, rubbish, dirt or any other substance, or to wilfully, wantonly or carelessly disjoint, break or injure the pump, tackle or machinery attached to any public well, pump or reservoir, or any part thereof connected therewith.  
(1970 Code, § 13-25) Penalty, see § 130.99

#### **§ 130.04 PUBLIC HEALTH NUISANCES.**

(A) *Leaving putrid and other waste matter in exposed places prohibited.* It shall be unlawful for any person to leave exposed in any street, sidewalk or public place, or upon any lot of ground or other premises in the city any dead animal, putrid substance, manure, offal or refuse matter which is or may become offensive and a nuisance to the public health. (1970 Code, § 13-31)

(B) *Duty of owners and occupants of premises to abate nuisances thereon; recourse of city upon violation of notice.* If the owner or occupant of any premises in the city shall permit any offensive or unwholesome substance which constitutes a public health nuisance to accumulate or remain thereon, the person so offending shall, upon notice from the Mayor so to do, promptly abate such nuisance; and if he fails to do so within a reasonable time under the conditions then existing, and in no case later than 5 days from the service of such notice, the city shall have such recourse as is provided in §§ 11-2 to 11-8.  
(1970 Code, § 13-32)  
Penalty, see § 130.99

#### **§ 130.05 RAILROAD.**

(A) *Obstructing traffic and blocking crossings.* No railroad company or employee thereof shall suffer or permit a locomotive, train of cars or car to stand upon any street within the city for a period of time longer than the minimum time necessary for the loading or unloading of freight or passengers; and in no event shall a railroad company or employee thereof suffer or permit a locomotive, train of cars or car to

wholly or partially block a street intersection for a period of time in excess of 5 minutes.  
(1970 Code, § 13-34)

(B) *Jumping on or off locomotive or car.* It shall be unlawful for any person to climb or jump upon any of the locomotives or cars of any railroad company within the city, whether in motion or not, except such person be in the employ of such company, or in the legitimate business thereof, or as a passenger on a train.  
(1970 Code, § 13-35) Penalty, see § 130.99

#### **§ 130.06 SOLICITATION PERMITS REQUIRED FOR CERTAIN PURPOSES.**

(A) It shall be unlawful for any person, within the corporate limits, to solicit money, securities, pledges or other contributions, whether payable at the time or in the future, for or on behalf of any eleemosynary, charitable, nonprofit, public or other like organization or person without first having obtained a permit as herein provided, and it shall be further unlawful for any such person or organization to fail or refuse to comply with any of the other requirements herein provided for in the use of such permit.

(B) All solicitation permits, which shall be valid for no more than 1 week, shall be issued by the City Clerk to such persons who have made proper application therefor during regular business hours and have strictly complied with all requirements for issuance.

(C) The time for submitting application shall be not less than 48 hours and not more than 14 calendar days prior to the commencement of intended use of such permit.

(D) The form of application shall be as prescribed by the City Clerk and, among other things, shall contain the full and complete name, address and telephone number, if any, of the organization and of all persons who may be engaged in such activity on behalf of the organization. The permit application



shall further contain the purpose of such solicitation and use made or to be made of all proceeds thereof and all solicitation dates.

(E) Solicitation hours and days shall be during the hours of 10:00 a.m. till 5:00 p.m. (eastern standard or daylight savings time, whichever shall then be in effect) on Mondays through Saturdays, exclusive of all legal holidays as prescribed by W.V. Code, Chapter 2.

(F) Every person who shall solicit under this section shall wear and have prominently displayed a name tag identifying the name of the organization and of the individual solicitor.

(G) No more than 4 persons shall engage in solicitation for any organization during the permit period unless otherwise first approved by the Common Council.

(H) Any person who violates any provision of this section shall, upon conviction, be fined not less than \$1 nor more than \$100, and, in addition, the bond heretofore provided shall be revoked and forfeited unto the city. (1970 Code, § 13-36) (Ord. passed 3-21-1967; Ord. passed 12-19-1979)

#### **§ 130.07 MASSAGE PARLORS AND SIMILAR ESTABLISHMENTS LOCATED WITHIN CORPORATE LIMITS.**

(A) It shall be unlawful for any establishment, regardless of whether it is a public or private facility, to operate as a massage salon, bath parlor or any similar type business, where any physical contact with the recipient of such services is provided by a person of the opposite sex.

(B) This section shall not apply to a physician, surgeon, chiropractor, osteopath or physical therapist duly licensed by the state or to a licensed nurse acting under the direct prescription and direction of any such physician, surgeon, chiropractor or osteopath. Also, this section shall not apply to barbershops or beauty

parlors in which massage is given to the scalp, the face, the neck or the shoulders, or any other establishment expressly authorized by W.V. Code § 30-37-1 *et seq.*  
(1970 Code, § 13-23.1) (Ord. passed 4-18-1978) Penalty, see § 130.99

#### **§ 130.08 SMOKING PROHIBITED IN CERTAIN DESIGNATED PUBLIC PLACES.**

It shall be unlawful for any person to smoke cigarettes, cigars, cigarillos, pipes or any other similar item or thing while on or in any public park, street, shopping center, building, enclosure or other thoroughfare or on or in any such property or place which, although not publicly owned, is lawfully open to and accessible to the public and which has been so designated and conspicuously posted as prohibited by lawful resolution of the Common Council.  
(Ord. passed 6-21-1988) Penalty, see § 130.99

### ***OFFENSES AGAINST PUBLIC PEACE AND SAFETY***

#### **§ 130.20 ASSAULT AND BATTERY.**

It shall be unlawful for any person to commit an assault or battery upon another person within the city.  
(1970 Code, § 13-1) Penalty, see § 130.99

***Statutory reference:***

*Malicious and unlawful assaults, see W.V. Code,  
§ 61-2-9*

#### **§ 130.21 BATHING INDECENTLY IN OHIO RIVER AND SAND CREEK.**

It shall be unlawful for any person to bathe in the Ohio River or Sand Creek within the city while nude or otherwise indecently exposing himself.  
(1970 Code, § 13-3) Penalty, see § 130.99

***Statutory reference:***

*Authority of city to enact ordinances to protect  
the public morals, see W.V. Code, § 8-12-5(44)  
Indecent exposure of person, see W.V. Code,  
§ 61-8-28*

#### **§ 130.22 BREACH OF PEACE.**

(A) It shall be unlawful for any person to conduct himself in a noisy, boisterous, belligerent or tumultuous manner, to the disturbance of the peace and quiet of the neighborhood or of any lawful assembly of people, or to be intoxicated to such a degree as to be noisy or annoying to the neighborhood, or in any other manner to commit within the city a breach of the peace, as such offense is defined by the common law of this state.

(B) Any person who, in a public or private place within the city, shall disturb the peace of others by violent, profane, indecent or boisterous conduct or language or by the making of unreasonably loud noise that is intended to cause annoyance or desist by a law enforcement officer acting in his lawful capacity, shall be guilty of disorderly conduct, a misdemeanor, and upon conviction thereof shall be fined not more than \$100.  
(1970 Code, § 13-4) (Am. Ord. passed 7-21-1987)

#### **§ 130.23 DISORDERLY CONDUCT.**

Any person who shall do or engage in any of the following shall be guilty of disorderly conduct.

(A) Any person who shall act in a violent or tumultuous manner toward another whereby any person is placed in fear of safety of his life, limb or health.

(B) Any person who shall act in a violent or tumultuous manner toward another whereby property of any person is placed in danger of being destroyed or damaged.

(C) Any person who shall endanger lawful pursuits of another by acts of violence, angry threats or abusive conduct.

(D) Any person who shall cause, provoke or engage in any fight, brawl or riotous conduct so as to endanger life, limb, health or property of another.

(E) Any person who shall assemble or congregate with another or others for the purpose of causing, provoking or engaging in any fight or brawl.

(F) Any person who shall be found jostling or roughly crowding or pushing any person in any public place.

(G) Any person who shall collect with others in bodies or in crowds for unlawful purposes, as defined by state law, this code or other ordinance.

(H) Any person who shall assemble or congregate with another or others for purpose or with intent to engage in illegal gaming.

(I) Any person who shall frequent any public place with intent to obtain money from other persons by illegal and fraudulent schemes, tricks, artifices or devices.

(J) Any person who assembles with others for the purpose of engaging in any fraudulent scheme, device or trick to obtain any valuable thing in any place or from any person in the city.

(K) Any person who utters, while in a state of anger, in the presence of another, any bawdy, lewd or obscene words or epithets.

(L) Any person who frequents any place where illegal gaming or illegal sale or possession of alcoholic beverages, narcotics or dangerous drugs is practiced, allowed or tolerated.

(M) Any person who shall use words, reasonably calculated to incite an assault, directed towards any person who becomes outraged and thus creates turmoil.

(N) Any person who shall assemble or congregate with others for the purpose of trouncing upon another.

(O) Any person who shall by acts of violence interfere with another's pursuit of a lawful occupation.

(P) Any person who shall congregate with another or others in or on any public way so as to halt the flow of vehicular or pedestrian traffic and refuses to clear such public way when ordered by city police or other lawful authority.

(Q) Any person who shall wilfully disturb, molest or interrupt any church, literary society, school, society formed for the intellectual, moral or physical improvement of its members, or any peaceable or lawful assembly of the inhabitants of the city for social or deliberative purposes, or any persons while meeting together for lawful purposes, or any orderly or lawful procession of the inhabitants of the city.  
(1970 Code, § 13-17) Penalty, see § 130.99

#### **§ 130.24 DRINKING IN PUBLIC.**

It shall be unlawful for any person to drink or attempt to drink alcoholic liquor or nonintoxicating beer while on any public park, street, shopping center or other thoroughfare or on any such property or place which, although not publicly owned, is lawfully open and accessible to the public.  
(1970 Code, § 13-17.1) (Ord. passed 9-6-1977) Penalty, see § 130.99

#### **§ 130.25 INDECENT EXPOSURE; INDECENT CONDUCT.**

(A) It shall be unlawful for any person within the city to make any indecent and immoral exhibition of his person or to procure any other person to make any such indecent and immoral exhibition or exposure in the presence or view of any other person.

(B) It shall be unlawful for any person within the city to commit or perpetrate any indecent, lewd or filthy act in the presence or view of any other person, or in such a situation that persons passing might ordinarily see such act.  
(1970 Code, § 13-20) Penalty, see § 130.99

***Statutory reference:***

*Indecent exposure, see W.V. Code, § 61-8-28*

#### **§ 130.26 DISPLAY OF LEWD OR OBSCENE MATERIALS.**

No person shall exhibit, show, display, advertise, sell, or offer to sell any book, magazine, picture, photograph, painting, or other thing which is commonly called or regarded as adult literature unless the same, including the cover thereof, be fully covered and protected from exposure to and viewing by the general public. Notwithstanding the foregoing, it shall not be unlawful or prohibited to expose so much of said book, magazine, picture, photograph, or other thing which merely displays or shows the title or name of same.  
(Ord. passed 5-20-1980) Penalty, see § 130.99

#### **§ 130.27 INTOXICATION IN PUBLIC PLACES.**

It shall be unlawful for any person to be in any street or other public place in the city while intoxicated to such a degree as to stagger or to be unable to walk without assistance.  
(1970 Code, § 13-21) Penalty, see § 130.99

#### **§ 130.28 ILLEGAL DRUGS, TOBACCO AND SMOKE.**

It shall be unlawful for any person to use illegal drugs, tobacco and cigarettes inside of any municipal building or enclosed structure. This prohibition includes any publically-owned building, enclosed structure or

vehicle, and is not limited to those areas of the building where the public has access. This prohibition does not extend to the exterior properties of the city, such as porches, sidewalks or parks. Confinement is not authorized for this offense.  
(Ord. 8-19-2003)

**§ 130.29 LOITERING IN GROUPS AT NIGHT.**

It shall be unlawful for any 2 or more persons to congregate together during the period beginning one-half hour after sunset and ending one-half hour before sunrise on or in any street, sidewalk or other

place in the city for the purpose of annoying, frightening, or in any manner molesting any other person or for the purpose of interfering with another person who is then and there conducting himself in a lawful manner.  
(1970 Code, § 13-23) Penalty, see § 130.99

### **§ 130.30 PROFANE, LEWD AND OBSCENE LANGUAGE.**

It shall be unlawful for any person to utter any profane, lewd or obscene words which are offensive to any person who hears such words.  
(1970 Code, § 13-28) Penalty, see § 130.99

### **§ 130.31 PROSTITUTION.**

(A) *Houses of ill fame; associating with prostitutes.* It shall be unlawful for any person to keep a house of ill fame, or a house resorted to for the purpose of prostitution and lewdness, or to harbor lewd and dissolute women, knowing them to be such or to associate or familiarly converse with notorious prostitutes in any public place or with any lewd women appearing on the streets or alleys of the city after dark.  
(1970 Code, § 13-29)

(B) *Prohibited; soliciting for prostitutes prohibited.* It shall be unlawful within the city for any person to engage in the trade, profession or activity of prostitution, or to solicit customers or patrons for any prostitute.  
(1970 Code, § 13-30) Penalty, see § 130.99

***Statutory reference:***

*Authority of city to arrest, correct, and punish  
any person keeping a house of ill fame, see  
W.V. Code, § 8-12-5(18);  
Houses of ill fame, see W.V. Code, § 61-8-5*

### **§ 130.32 VAGRANCY.**

(A) In order to prevent injury or annoyance to the public or individuals from anything dangerous or unwholesome, and to prevent offenses against good

morals and decency and damage to property, it is declared that it shall be unlawful to commit the crime of vagrancy within the city.

(B) The following persons shall be deemed vagrants:

(1) All persons wandering or loitering about the streets or public places without lawful and visible means of support, or who can give no satisfactory account of themselves, or their business in such places;

(2) All persons who, not having visible means to maintain themselves, are found loitering or rambling about, or wandering about, or lodging in sheds, public buildings, premises of common carriers, or in the open air, and not being able to give a good account of themselves;

(3) All persons who, not having visible means to maintain themselves, are found wandering about begging, or going from door to door begging, or placing themselves in the streets or in other thoroughfares, or in public places, to beg or receive alms;

(4) All persons found loitering, upon whom shall be found any instrument or thing used for the commission of burglary, or for picking locks or pockets, and who cannot give account of their possession thereof;

(5) Any male person who lives with, or is habitually in the company of, a prostitute, and has no visible means of support, shall be deemed to be living on the earnings of prostitution and shall be deemed a vagrant under this section;

(6) Any person who shall come from any place without the city to any place within it, and shall be found loitering and residing therein, and shall follow no labor, trade, occupation or business, and have no visible means of subsistence, or can give no reasonable account of himself or his business in such place;



(7) All prostitutes and professional gamblers and all keepers, occupants, lessees, tenants and pimps of houses or property used for prostitution or gambling shall be deemed and are hereby declared to be vagrants;

(8) Any person who frequents a public place with intent to commit a crime or violation of the penal law of the United States, this state or city;

(9) Any person who habitually loiters in a street or other public place to the obstruction of traffic;

(10) Any person leading an immoral or profligate life who has no lawful means of support realized from a lawful occupation or lawful source;

(11) Any person who wanders about the streets at late or unusual hours of the night without any visible means of support or without lawful business or not giving a good account of himself;

(12) All persons who by the common law are vagrants, as the same may be defined by the laws of the state;

(13) Healthy persons who solicit alms;

(14) Lewd, disorderly or dissolute persons;

(15) Persons who solicit business for an attorney around any court, jail, hospital or elsewhere;

(16) Habitual users of opium, morphine, alkaloid-cocaine or alpha or beta eucaine, or any derivation, mixture or preparation of any of them.

(C) In any prosecution under this section, the burden of proof shall be upon the defendant to show that he has lawful employment or has lawful means of support realized from a lawful occupation or a lawful source.

(D) On trial before the Police Court Judge of any person charged with being a vagrant, it shall be lawful for the city to introduce testimony as to the character

and reputation of the defendant, touching any of the matters set forth in this section, and the defendant may resort to testimony of a like nature for the purpose of disproving such charge. (1970 Code, § 13-37) Penalty, see § 130.99

### **§ 130.33 WEAPONS.**

(A) *Not to be carried concealed on person.* It shall be unlawful for any person, except while on his own premises, to carry concealed upon his person any firearm, metallic knuckles, dirk, switchblade knife or other weapon or instrument commonly used for the purpose of infliction of personal injury; provided, that this section shall not apply to law enforcement officers while engaged in the exercise of their official duties. (1970 Code, § 13-38)

(B) *Discharge of.* It shall be unlawful for any person to discharge any firearm, air rifle, slingshot or other weapon or instrument which discharges a projectile capable of inflicting bodily injury except in the lawful defense of person or property and except in the performance of a lawful duty; provided, that this section shall not apply to the use of blank ammunition at athletic events, military funerals and other functions at which the use of blank ammunition is appropriate, nor shall it apply to the use of ball ammunition or arrows on lawful target ranges where such activity is conducted under competent supervision. (1970 Code, § 13-39) Penalty, see § 130.99

***Statutory reference:***

*Authority of city to arrest, correct and punish any individual for carrying about his person any dangerous weapon, see W.V. Code, § 8-12-5(16)*  
*Dangerous weapons generally, see W.V. Code, §§ 61-7-1 et seq.*

## ***OFFENSES AGAINST CITY GOVERNMENT***

### **§ 130.45 INTERFERING WITH CITY OFFICERS AND EMPLOYEES.**

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

(1970 Code, § 13-5)

***Statutory reference:***

*Obstructing an officer, see W.V. Code, § 61-5-17*

### **§ 130.46 IMPERSONATION OF CITY OFFICERS AND EMPLOYEES.**

No person shall falsely represent himself to be an officer or employee of the city or without proper authority wear or display any uniform, insignia or credential which identifies any city officer or employee; nor shall any person without proper authority assume to act as an officer or employee of the city, whether to gain access to premises, obtain information, perpetrate a fraud or for any other purpose; provided, that nothing in this section shall be construed to prevent a private citizen from making a lawful citizen's arrest for felony or breach of the peace committed in his presence.

(1970 Code, § 13-6)

### **§ 130.47 COURTESY DUE TO AND FROM CITY OFFICERS AND EMPLOYEES; PROHIBITED ACTS.**

(A) City officers and employees shall be courteous in their official transactions with the public, and they shall conduct themselves in the performance of official duties so as to not knowingly deprive any person, at the time and under the circumstances then and there existing, of any lawful right or benefit to which such person may be entitled. Any person who

feels aggrieved by the conduct of any city officer or employee in violation of this subsection is invited to bring the matter to the attention of such officer's or employee's department head or to the Mayor, without prejudice to any other recourse to which such aggrieved person may be entitled.

(B) Members of the public, in turn, should be courteous in their transactions with city officers and employees, and it shall be unlawful for any person to knowingly taunt, deride, jeer or otherwise insult or debase, whether by act, word or gesture, any city officer or employee at any time or place while such city officer or employee is lawfully engaged in the performance of any official duty.  
(1970 Code, § 13-7) Penalty, see § 130.99

#### **§ 130.48 REFUSAL OF CITIZEN TO OBEY POLICE OFFICER'S REQUEST FOR AID IN APPREHENDING LAW VIOLATOR.**

It shall be unlawful for any able-bodied person having been called upon by any police officer in apprehending someone charged with or convicted of any offense against any of the ordinances of the city, or in securing such offender when apprehended, or in conveying such offender to jail, to refuse or neglect to render such assistance.

(1970 Code, § 13-8) Penalty, see § 130.99

***Statutory reference:***

*Refusal of person to aid officer, see W.V. Code,  
§ 61-5-14*

#### **§ 130.49 RESCUE OF PERSON HELD IN CUSTODY FOR LAW VIOLATION.**

It shall be unlawful for any person to rescue by force from any officer or employee of the city any offender charged with or convicted of any offense against the ordinances of the city or from any person charged with the safe keeping of such offender.

(1970 Code, § 13-9) Penalty, see § 130.99

***Statutory reference:***

*Aiding a prisoner to escape, see W.V. Code,  
§ 61-5-8*

#### **§ 130.50 FALSE ALARMS AS TO FIRE, EXPLOSION OR NEED FOR POLICE OR MEDICAL ASSISTANCE.**

(A) No person shall wilfully or mischievously give or cause to be given any false alarm of fire.

(B) No person shall wilfully or mischievously give or cause to be given any false alarm of explosion or impending danger of explosion.

(C) No person shall wilfully or mischievously give or cause to be given any false alarm of the need for police protection or assistance.

(D) No person shall wilfully or mischievously give or cause to be given any false alarm as to the need for an ambulance or medical assistance.

(1970 Code, § 13-18) (Ord. passed 10-30-1937) Penalty, see § 130.99

### ***OFFENSES AGAINST PROPERTY***

**§ 130.65 TAMPERING WITH CITY PROPERTY, PERSONAL PROPERTY.**

No person shall, without proper authority, knowingly use, tamper with, render inoperative, destroy, damage, remove, deface, molest or otherwise interfere with any books, records, furniture, equipment, gear, apparatus, tools or other items of personal property belonging to, leased to or used by the city or any agency thereof. (1970 Code, § 13-10) Penalty, see § 130.99

***Statutory reference:***

*Crimes against property generally, see  
W.V. Code, §§ 61-3-1 et seq.*

**§ 130.66 DAMAGE TO AND TRESPASS UPON REAL PROPERTY.**

No person shall, without proper authority, knowingly trespass upon or damage, deface, molest or

otherwise interfere with any real property belonging to, leased to or used by the city or any agency thereof.  
(1970 Code, § 13-11) Penalty, see § 130.99

#### **§ 130.67 PEEPING INTO DWELLINGS; UNLAWFULLY ENTERING PRIVATE PROPERTY.**

If any person shall unlawfully enter upon the property of another, in the day or night, and secretly or furtively peep through or attempt to so peep into, through, or spy through a window, door or other aperture of any building, structure or other enclosure of any nature occupied or intended for occupancy as a dwelling, whether or not such building, structure or enclosure be permanently situated or transportable and whether or not such occupancy be permanent or temporary, such person shall be guilty of a misdemeanor.  
(1970 Code, § 13-24.1) (Ord. passed 10-2-1973) Penalty, see § 130.99

#### **§ 130.68 PRIVATE PROPERTY PROTECTED.**

(A) *Personal property.* No person shall, knowingly and without proper authority, use, tamper with, render inoperative, destroy, damage, remove, deface, molest or otherwise interfere with any personal property of another.  
(1970 Code, § 13-26)

(B) *Real property.* No person shall, knowingly and without proper authority, destroy, damage, deface, molest or otherwise interfere with any real property of another, or knowingly trespass upon the real property of another.  
(1970 Code, § 13-27) Penalty, see § 130.99

#### **§ 130.69 NOTICES, HANDBILLS AND SIGNS NOT TO BE TAMPERED WITH.**

It shall be unlawful for any person, without proper authority, to remove, deface, damage or

otherwise tamper with any notice, handbill or sign which has been and is lawfully posted or emplaced.  
(1970 Code, § 13-24) Penalty, see § 130.99

## ***CURFEW***

### **§ 130.80 PURPOSE.**

The purpose of this subchapter is to protect juveniles from victimization and exposure to criminal activity by establishing a curfew for juveniles under the age of 18 years in the city. The youth protection ordinance is intended to reinforce and promote the role of the parent in raising and guiding children and promote the health, safety, and welfare of both juveniles and adults by creating an environment offering better protection and security for all concerned.  
(Ord. passed 10-3-2000)

### **§ 130.81 DEFINITIONS.**

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

***DIRECT ROUTE.*** The shortest reasonable path of travel on a commonly used route to reach a final destination without any detour or stop along the way.

***EMERGENCY.*** An unforeseen combination of circumstances or the resulting state that calls for immediate action. The term includes but is not limited to a fire, a natural disaster, an automobile accident, or any situation requiring immediate action to prevent serious bodily injury or death. This term also shall include any action that is reasonably necessary in order to respond to the medical needs to a family member of the juvenile regardless of whether the juvenile's action is taken in order to prevent death or serious bodily injury.

***ESTABLISHMENT.*** Any privately owned place of business operated for profit to which the public has

access or is invited, including, but not limited to any place of amusement or entertainment.

***GUARDIAN.*** A person who is court appointed to be the guardian of a juvenile.

***JUVENILE.*** Any person under the age of 18 years of age.

***OWNER/OPERATOR.*** Any individual, firm, association, partnership or corporation operating, managing or conducting any establishment, including the employees, members or partners of an association or partnership and the officers of a corporation.

***PARENT.*** A person who is a natural parent, adoptive parent, foster parent, or stepparent of another person, or a person to whom legal custody has been given by court order.

***PUBLIC PLACE.*** Any place that is generally open to and used by the public or a substantial group of the public, whether it be publicly or privately owned, including but not limited to, streets, sidewalks, highways, alleys, rights-of-way, public vehicular areas and parking lots, transportation facilities, theaters, restaurants, shops, bowling alleys, schools and school grounds, places of business and amusement, playgrounds, parks, and similar areas that are open to or accessible to the public.

***REMAIN.*** To linger or stay in a public place or to fail to leave the premises when requested to do so by a police officer or to fail to leave the premises of an establishment when requested to do so by the owner/operator or employee of the premises.

***RESTRICTED HOURS.*** The time of night referred to herein as based upon the prevailing standard of time, whether Eastern Standard Time or Eastern Daylight Savings Time, generally observed by the public in the city. ***RESTRICTED HOURS*** shall mean:

(1) 10:00 p.m. on any Sunday, Monday, Tuesday, Wednesday or Thursday until 6:00 a.m. of the following day; and



(2) 12:01 a.m. until 6:00 a.m. on any Friday or Saturday.  
(Ord. passed 10-3-2000)

### **§ 130.82 OFFENSES.**

Except as provided by § 130.83(A), the following offenses constitute a violation of this subchapter.

(A) A juvenile commits an offense by being present on or remaining in any public place or on the premises of any establishment within the city during the restricted hours.

(B) A parent or guardian of a juvenile commits an offense if they knowingly permit or by insufficient control allow the juvenile to remain in any public place or on the premises of any establishment within the city during restricted hours. The term **KNOWINGLY** includes knowledge that a parent or guardian should reasonably be expected to have concerning the whereabouts of a juvenile in his or her legal custody. This requirement is intended to hold a neglectful or careless parent or guardian up to a reasonable community standard of parental responsibility through an objective test. It shall, therefore, be no defense that a parent or guardian was completely indifferent to the activities or conduct or whereabouts of such juvenile.

(C) The owner, operator, or an employee of an establishment commits an offense if he knowingly allows a juvenile to remain upon the premises of the establishment during the restricted hours. The term **KNOWINGLY** shall be applied through an objective test: whether a reasonable person in the operator's or employee's position should have known that the patron was a juvenile in violation of this subchapter.

(D) It shall be a violation of this subchapter for any person 18 years or older to aid and abet a juvenile in violation of division (A) of this section.

(E) It shall be a violation of this subchapter for a parent or guardian to refuse to take custody during the restricted hours of a juvenile for whom the parent or guardian is responsible.  
(Ord. passed 10-3-2000)

### **§ 130.83 EXCEPTIONS AND DEFENSES.**

(A) *Exceptions.* A juvenile who is in a public place or establishment during the restricted hours shall not be in violation of this subchapter if the juvenile is:

- (1) Accompanied by his parent or guardian;
- (2) Accompanied by an adult 18 years of age or older authorized by the parent or guardian of such juvenile to take the parent or guardian's place in accompanying the juvenile for a designated period of time and purpose within the specified area;
- (3) On an errand using a direct route, at the direction of the juvenile's parent or guardian until the hour of 12:30 a.m.;
- (4) In a motor vehicle with parental consent engaged in interstate travel through the city or originating or terminating in the city;
- (5) Traveling in a motor vehicle with a parent or guardian, or traveling in a motor vehicle with an adult 18 years or older authorized by the parent or guardian of such juvenile to take the parent or guardian's place in accompanying the juvenile for a designated period of time and purpose within a specified area;
- (6) Engaged in a lawful employment activity, or using a direct route to or from a place of employment;

(7) Reacting or responding to an emergency;

(8) Attending or traveling to or from, by direct route, an official school, religious, or recreational activity that is supervised by adults and sponsored by a public or private school, the city or other governmental entity, a civic organization, or another similar entity that accepts responsibility for the juvenile;

(9) Exercising First Amendment rights protected by the United States Constitution such as the free exercise of religion, freedom of speech, and the right of assembly;

(10) Married or emancipated;

(11) When authorized by special permit from the Chief of Police or his designee, carried on the person of the juvenile, as follows. When necessary nighttime activities of a juvenile may be inadequately provided for by other provisions of this subchapter, the recourse may be had to Chief of Police, or his designee, either for regulation as provided in division (A)(12) of this section or for a special permit as the circumstances warrant. Upon the findings of reasonable necessity for the use of a public place to the extent warranted by a written application signed by a juvenile, and by a parent or guardian of the juvenile, if feasible, stating:

(a) The name, age, and address of the juvenile;

(b) The name, address, and telephone number of a parent thereof;

(c) The height, weight, sex, color of eyes and hair and other physical characteristics of the juvenile;

(d) The necessity that requires the juvenile to remain upon a public place during restricted hours otherwise applicable;

(e) The public place and date and hour involved, the Chief of Police or his designee may grant a permit in writing for the juvenile's use of a public place as such hours as in the opinion of the Chief of Police may reasonably be necessary and consistent with the purposes of this subchapter;

(12) When authorized, by regulation issued by the Chief of Police or his designee in other similar cases of reasonable necessity, similarly handled as set forth in subsection (A)(11) but adapted to reasonably necessary nighttime activities of more juveniles than

can readily be dealt with on an individual special permit basis. Normally such regulation by the Chief of Police or his designee permitting use of public places should be issued sufficiently in advance to permit appropriate publicity through news media and through other agencies such as the schools and shall define the activity, the scope of the use of the public places permitted, the period of time involved not to extend more than 1 hour beyond the time for termination of the activity and the reason for finding that the regulation is reasonably necessary and is consistent with the purpose of this subchapter.

(B) *Defense.* It is a defense to prosecution under § 130.82(C) that the owner, operator or employee of an establishment promptly notified the Police Department that a juvenile was present on the premises of the establishment during the restricted hours and refused to leave.  
(Ord. passed 10-3-2000)

#### **§ 130.84 ENFORCEMENT.**

(A) Before taking any enforcement action under this subchapter, a police officer shall ask the apparent offender's age and reason for being in the public place or establishment during the restricted hours.

(B) The officer shall not prepare a juvenile arrest report, issue a citation, or make an arrest under this subchapter unless the officer reasonably believes that an offense has occurred and that, based on any response and other circumstances, no exception or defense in § 130.83 is present.  
(Ord. passed 10-3-2000)

#### **§ 130.99 PENALTY.**

(A) Whoever shall violate any provision of this section for which no specific penalty is provided shall be punished as set forth in § 10.99 of this code.

(B) (1) A juvenile who violates any provision of §§ 130.80 *et seq.* is subject to being adjudicated

delinquent. The Municipal Court may in its discretion impose any dispositional alternative(s) that are provided by the W.V. Code, § 49-5-2.

(2) Any person other than a juvenile who is found guilty of violating any provision of §§ 130.80 *et seq.* shall be guilty of a misdemeanor and shall be in the discretion of the court subject to a fine up to \$500 and/or a jail sentence not to exceed 30 days as set forth in § 10.99.  
(Ord. passed 10-3-2000)

(C) Whoever shall violate any provision of §§ 130.65, 130.66, or 130.68 of this chapter shall, upon conviction, be fined not less than \$50 nor more than \$500 for each offense.  
(Ord. passed 3-7-1979)

**TITLE XV: LAND USAGE**

Chapter

**150. BUILDING REGULATIONS**

**151. FLOOD PLAIN MANAGEMENT**

**152. ZONING CODE**



## CHAPTER 150: BUILDING REGULATIONS

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***GENERAL PROVISIONS***

**§ 150.01 BUILDING INSPECTOR.**

The office of Building Inspector is created. Until such time as the Common Council may provide for the appointment of a qualified person to such office, the Mayor, with the approval of the Common Council, shall designate an appropriate city officer as ex officio building inspector. The Building Inspector shall have

the powers and perform the duties of such office as provided by state law, this code and other ordinance or by resolution of the Common Council.  
(1970 Code, § 6-1) (Ord. passed 4-18-1978)

## **§ 150.02 STANDARDS FOR CONSTRUCTION, REPAIR, ALTERATION, MOVING AND DEMOLITION OF BUILDINGS AND OTHER STRUCTURES.**

(A) In the construction, repair, alteration, moving or demolition of any building or other structure, or any part of any building or other structure, the specifications to be met, the materials to be used, the methods to be employed and the standards of workmanship shall conform to nationally accepted standards as stated in and in compliance with the provisions of the current edition of the BOCA National Building Code shall be prima facie evidence of compliance with this section.

(B) The following state codes are adopted by reference as though they were copies herein fully: W.V. Code, § 8-12-13 and the State Building Code as provided in W.V. Code, § 29-3-5b.  
(1970 Code, § 6-2) (Am. Ord. passed 2-1-1994)

## **§ 150.03 PERMIT REQUIRED TO CONSTRUCT, ALTER OR ADD TO ANY BUILDING.**

(A) No person shall construct, alter or add to any building within the city without having obtained a permit to do so from the City Clerk to be issued only upon a directive from the Building Inspector.

(B) Each such permit shall be valid for a period of 180 days from the date of issuance.  
(1970 Code, § 6-3)

### ***Statutory reference:***

*Authority of Common Council to require building permit for construction of any structure, see W.V. Code, § 8-12-14*

#### **§ 150.04 BUILDING PERMIT FEES.**

The Common Council may by resolution promulgate a schedule of fees to be charged for permits issued pursuant to this subchapter and for inspections required by the terms of such permits.  
(1970 Code, § 6-4)

#### **§ 150.05 FIRE LIMITS.**

(A) *Established.* The entire area of the city within the corporate boundaries of the city is established as the fire limits of the city.  
(1970 Code, § 6-5)

(B) *Prohibited construction.* It shall be unlawful for any person, within the limits designated in this section as fire limits, to construct any building or to make any addition to any building unless the outer walls and roof thereof be composed of incombustible material; excepting buildings that are not to exceed 12 feet high at the highest point, and are erected not less than 40 feet from the nearest point to any street; also excepting stables or buildings of like nature, erected pursuant to special permit granted pursuant to this subchapter, and then not within less than 40 feet of any street.

(1970 Code, § 6-6) Penalty, see § 150.99

***Statutory reference:***

*Authority of Common Council to enact ordinance  
to prohibit, within specified territorial limits, the  
erection of structures of combustible material,  
see W.V. Code, § 8-12-13*

#### **§ 150.06 ANNUAL INSPECTION OF PROPERTY.**

A duty is imposed upon the owner of any building, house, structure, trailer, mobile home, or other property located within the corporate limits which property is, in whole or part, let, leased, rented to or commonly occupied by other persons as living quarters or a place of residence, temporarily or permanently, to have made or cause to have made a competent inspection of such property not less than

annually for the purpose of determining if such property is free and clear of rats, vermin, insects, bugs, or pests.

(A) A written certificate of each such inspection shall be obtained by the owner, and upon reasonable demand by the City Building Inspector, the same shall be exhibited.

(B) The term ***COMPETENT INSPECTOR*** shall mean that the same shall be performed by a termite and/or pest control agency, company or operator licensed by and within the state at the time of such inspection.

(C) The owner of any property subject to the provisions of this section which property has failed the aforementioned inspection or is otherwise determined to be infested with rats, vermin, insects, bugs, or pests shall treat, or cause the same to be promptly treated, and the necessary extermination procedures administered and applied thereto.

(Ord. passed 5-20-1980)

#### **§ 150.07 FENCES, WALLS, AND BARRIERS.**

(A) *Fences, walls, and barriers.* No person shall construct or erect or cause to be constructed or erected any fence, wall or other barrier on any property within the corporate limits until he shall have obtained and submitted an application for a permit for this purpose and such permit has been approved by the City Building Inspector.

(B) *Application form.* The form for such application shall be provided at the City Clerk's office and shall require such information as may be necessary in the opinion of the City Planning Commission.

(C) *Fees.* A fee, set by a resolution adopted by the Common Council of the city, for such application shall be charged to the applicant at the time of completion and filing.

(D) *Penalties.* It shall be unlawful for any person to erect, construct or cause to be erected or constructed any fence, wall or other barrier within the city without having first obtained and paid for the permit herein above required, and, upon conviction of any violation hereunder, such person shall be fined not less than \$10 nor more than \$500 and taxed with cost of the action.  
(Ord. passed 9-7-1993; Am. Ord. passed 10-17-2000)

## ***PLUMBING***

### **§ 150.20 STANDARDS TO BE MET.**

In the construction, installation, maintenance, use, repair, extension or alteration, removal or dismantling of any plumbing system or device or any part thereof, the specifications to be met, the materials and devices to be used, the methods to be employed and the standards of workmanship shall conform to nationally accepted standards as stated in publications of recognized experts in the fields of plumbing and sanitary engineering; compliance with the provisions of the current edition of the National Building Code recommended by the American Insurance Association shall be prima facie evidence of compliance with this section.  
(1970 Code, § 15-1)

***Statutory reference:***

*Authority of city to regulate plumbing by  
prescribing minimum specifications, see  
W.V. Code, § 8-12-13(3)*

### **§ 150.21 PERMIT REQUIRED FOR CONSTRUCTION, ALTERATION AND THE LIKE OF PLUMBING SYSTEM OR FIXTURES.**

Before any person shall undertake to construct, install, repair, extend or alter, remove or dismantle any plumbing system or device or any part thereof, he

shall first obtain a permit to do so from the City Clerk to be issued only upon a directive from the Building Inspector.

(1970 Code, § 15-2) (Ord. passed 8-7-1956)

***Statutory reference:***

*Authority of city to require permit for construction, repair or alteration of equipment which is part of a structure regulated by state law or city ordinance, see W.V. Code, § 8-12-14*

**§ 150.22 APPLICATION FOR PERMIT.**

Before the Building Inspector shall direct the issuance of a plumbing permit as required by this chapter, he shall require the applicant for such permit to furnish, in writing, the following information: the location and description of the premises upon which the work is to be done; approximate age of the building upon or within which the work is to be done; and a brief description of the work to be done and the plumbing system or device involved.

(1970 Code, § 15-3) (Ord. passed 8-7-1956)

**§ 150.23 PERMIT FEES.**

The Common Council may promulgate a schedule of fees to be charged for permits issued pursuant to this chapter and for inspections required by the terms of such permits.

(1970 Code, § 15-4) (Ord. passed 8-7-1956)

**§ 150.24 IMPOSITION OF FINE OR PENALTY FOR DOING WORK WITHOUT REQUIRED PERMIT NO BAR TO FURTHER RELIEF FOR CITY.**

The imposition of a fine or other penalty for doing any work for which a permit is required by this chapter, without having obtained such permit, shall not preclude the city from instituting an appropriate action or proceeding to prevent any further unlawful acts or to remedy any dangerous condition resulting from any unlawful act.

(1970 Code, § 15-5) (Ord. passed 8-7-1956)

***CONDEMNED DWELLINGS OR BUILDINGS***

**§ 150.35 PUBLIC NUISANCES.**

A dwelling or any other building or structure which, due to dilapidation, defects increasing the hazard of fire, accidents or other calamities, lack of ventilation, light or sanitary facilities or any other conditions prevailing therein, whether the same be used for human habitation or not, which would cause such dwelling or other building to be unsafe, unsanitary, dangerous or detrimental to the public welfare is declared to be a nuisance, which may be dealt with as provided in this subchapter in order to protect the health, welfare and safety of the general public.

(1970 Code, § 6-18) (Ord. passed 6-6-1978)

**§ 150.36 ENFORCEMENT AGENCY.**

(A) *Powers; right of entry.*

(1) There is created the Building Safety Committee which shall consist of the Mayor, the City Building Inspector and 1 member at large who shall be selected by and serve at the will and pleasure of the Mayor. In addition, the County Sanitarian, as ranking city health officer, and the Chief of the city's Volunteer Fire Department shall serve as ex officio members of such committee.

(2) The Building Safety Committee, acting by majority vote, is hereby granted the power and authority to require the repair, alteration or improvement, or the vacating and closing, or removal or demolition, or any combination thereof, of any dwelling or other building unfit for human habitation due to dilapidation, defects increasing the hazards of fire, accidents or other calamities, lack of ventilation, light or sanitary facilities or any other condition prevailing in any dwelling or building, whether used for human habitation or not, which would cause such dwelling or other building to be unsafe, unsanitary, dangerous or detrimental to the public welfare.

(3) The Building Safety Committee shall have the right and authority, through its own members or duly authorized agents, to enter upon any premises and to enter any dwelling or building for the purpose of making an inspection and examination deemed necessary by it in order for such committee to determine whether such dwelling or building is unfit for human habitation, unsafe, unsanitary, dangerous or detrimental to the public welfare. However, any such entry upon any premises, dwelling or building for the purpose of making an examination or inspection shall be made in such manner as to cause the least possible inconvenience to the owner or other persons in possession or occupancy.  
(1970 Code, § 6-19)

(B) *Rules of procedure; notice; hearings.* The following rules and standards are deemed necessary to guide the enforcement agency and its agents in the investigation of dwelling or building conditions and in conducting hearings.

(1) *Advice and counsel.* The enforcement agency may obtain the advice and counsel, in making its inspection, determination and findings, of 1 or more engineers, building contractors, architects and other persons deemed appropriate by the Committee and may reasonably compensate such persons for their services and any expense necessarily incurred therewith.

(2) *Notice.* If, after proper investigation and such hearings and portions thereof as the Building Safety Committee shall deem necessary, such dwelling or building is determined to be unfit for human habitation, unsafe, unsanitary, dangerous or detrimental to the public welfare, the Committee shall cause written notice to be issued and served on the owner of the dwelling or other building, advising him of the Committee's findings and instructing him to take such action, either by repairing, closing or demolishing, or any combination thereof, such dwelling or building, as the Committee shall have determined necessary in the interest of the public welfare.



(3) *Hearing.* Any person upon whom notice, as provided for in subsection (2) of this section, is served, shall have the right, within 10 days after the date of service, to demand a hearing before the Building Safety Committee. Such hearing, at which the owner shall have the right to be heard in full and to introduce such relevant evidence and expert or other relevant testimony as desired shall be held within 5 days after the receipt by the Building Safety Committee of a written demand therefor and at a time and place then designated by the Building Safety Committee. The decision of the Building Safety Committee affirming, rescinding, altering or modifying its original findings shall be rendered, in writing, within 10 days after the conclusion of the hearing. (1970 Code, § 6-20) (Ord. passed 6-6-1978)

#### **§ 150.37 VACATION OF DWELLINGS CONDEMNED; APPEAL.**

If the Building Safety Committee so prescribes, no dwelling or other building shall be occupied or used for any purpose after the service of notice upon the owner, as provided for, until the instructions of the Building Safety Committee have been complied with, rescinded or set aside. However, any owner shall have the right to apply to the County Circuit Court for a temporary injunction, in conformity with state law, restraining the Building Safety Committee pending final disposition of the case. (1970 Code, § 6-21) (Ord. passed 6-6-1978)

#### **§ 150.38 SERVICE OF NOTICE; POSTING.**

All complaints, notices, decisions and orders issued by the Building Safety Committee shall be served in accordance with the West Virginia Code and West Virginia Rules of Civil Procedure for Trial Courts of Record concerning the service of process in civil actions and shall, in addition thereto, be posted in a conspicuous place on the premises affected by the complaint, notice, decision or order. (1970 Code, § 6-22) (Ord. passed 6-6-1978)

### **§ 150.39 PERFORMANCE OF DEMOLITION; LIENS.**

In the event of the failure of any owner of any dwelling or other building to comply with the terms and requirements of any notice, decision or order of the Building Safety Committee within 20 days after the service or entry thereof, except where a proper demand has been made for a hearing and the matters arising thereon remain undetermined or application to the Circuit Court has been made for a temporary injunction and the hearing thereon has not been had and the decision not rendered, the Building Safety Committee may cause all necessary repairs, alterations or improvements to be made, or if the public welfare requires, may cause the dwelling or other building to be closed, removed or demolished, or any combination thereof. The Building Safety Committee shall keep an accurate account of all costs of such repairs, alterations or improvements, of such vacating and closing, removal or demolition, or any combination thereof, and shall assess all costs against the real property upon which such dwelling or other building is situated, and all costs, after the sale of any and all salvaged material is credited to the account, shall be a lien against the real property upon which such costs were incurred. Notice of such lien shall be by a certified statement thereof showing the nature of the work, the date and amount thereof, the property affected and the name of the owner thereof to be recorded in the office of the Clerk of the County Commission.

(1970 Code, § 6-23) (Ord. passed 6-6-1978)

### **§ 150.40 RIGHT OF ENTRY.**

Upon presentation of proper credentials and identification, a duly authorized representative of the city may enter, at reasonable times, any building, structure or premises in the city to perform any duty imposed by this subchapter.

(1970 Code, § 6-24) (Ord. passed 6-6-1978)

## ***SECURITY DEVICES***

### **§ 150.55 SECURITY REQUIREMENTS; EXEMPTIONS.**

Except as hereinafter specifically exempted, all existing and future buildings in the city used by any person for the purpose of conducting, managing or carrying on any business shall, when not occupied by a watchman, maintenance personnel or other authorized persons during the period that such building is closed to business, be so secured as to prevent unauthorized entry in accordance with specifications for physical security of exterior accessible openings as provided in § 150.59; provided, that existing buildings used for residential purposes shall not be subject to this subchapter. Any multi-unit building constructed for this purpose after November 6, 1979, shall be subject to the terms, modifications, requirements and penalties of this subchapter.  
(1970 Code, § 6-26) (Ord. passed 11-6-1979)

### **§ 150.56 ENFORCEMENT; RIGHT OF ENTRY.**

The Chief of Police is authorized and directed to enforce the provisions of this subchapter, and upon presentation of proper credentials, the Chief of Police or his duly authorized representative may, with the consent of the occupant or pursuant to a lawfully issued warrant, enter at reasonable times any building or premises used for business purposes for the purpose of inspecting the physical security of exterior accessible openings of such building or premises.  
(1970 Code, § 6-27) (Ord. passed 11-6-1979)

### **§ 150.57 RESPONSIBILITY FOR COMPLIANCE.**

Responsibility for compliance with the specifications set forth in § 150.59 shall be as follows.

(A) As to buildings occupied by a business establishment which does not share the exterior openings of such building with any other business establishment, the person operating such business shall be responsible.

(B) As to buildings occupied by 2 or more business establishments who share the same exterior openings of such building, the owner of such building, or his agent having charge, care or control of such building, shall be responsible.

(1970 Code, § 6-28) (Ord. passed 11-6-1979)

#### **§ 150.58 INSPECTION; NOTICE.**

The Chief of Police shall inspect or cause to be inspected the accessible exterior openings of every building subject to the provisions of this subchapter, and if he shall find accessible exterior openings, in any such building which do not comply with the specifications set forth in § 150.59, he shall give notice in writing to the person responsible, as designated in § 150.57, setting forth the deficiencies which are to be corrected and the period of time within which such corrections shall be completed. Failure to comply with such notice within the period of time specified shall be a violation of this subchapter.

(1970 Code, § 6-29) (Ord. passed 11-6-1979)

#### **§ 150.59 SECURITY MEASURES.**

(A) *Door construction; locking devices.* All exterior openings of any building used for business purposes and subject to the provisions of this subchapter and not otherwise protected by photoelectric, ultrasonic or other intrusion detection devices, approved by the Chief of Police, shall be secured as provided in this section.

(1) *Front doors.* All front doors of any such building or premises shall comply with the following requirements:

(a) Tempered glass doors, wood or metal doors with tempered glass panel, solid wood or metal doors shall be secured as follows:

1. A single door shall be equipped with either double cylinder dead lock that unlocks from both the outside and inside by key or with cylinder dead lock that unlocks from the outside by key and inside by turn piece, handle or knob or with dead locking latch having guarded bolt that unlocks from the outside by key and inside by turn piece, handle or knob;

2. On double doors the active leaf shall be equipped with a type of lock as prescribed for single doors above and the inactive leaf shall be equipped with flush bolts at head and foot;

(b) Rolling overhead doors that are not controlled or locked by electric power operation shall be equipped on the inside with the following protective devices:

1. Manually operated doors shall be provided with slide bolts on the bottom bar;
2. Chain operated doors shall be provided with a case iron keeper and pin for securing the hand chain;
3. Crank operated doors shall be provided with a means for securing the operating shaft.

(c) A solid overhead, swinging, sliding or accordion garage type door shall be secured with a cylinder lock, padlock, and/or metal slide bar, bolt or crossbar on the inside when not otherwise controlled or locked by electric power operation. If padlock is used, it shall be of hardened steel shackle, with minimum 4 pin tumbler operation. In the event that this type of door provides the only entrance to the front of the building, a cylinder lock or padlock may be used on the outside;

(d) Metal accordion grate or grill type doors shall be equipped with metal guide tract at top

and bottom and a cylinder lock and/or padlock with hardened steel shackle and minimum 4 pin tumbler operation;

(e) Outside hinges on all front doors shall be provided with nonremovable pins. Such hinge pins may be either welded, flanged or secured by a screw.

(2) *Rear, side and basement doors.* All accessible rear, side and basement doors of any such building or premises shall comply with the following requirements:

(a) All doors of the types listed below shall comply with the requirements of subsection (1) of this section for front doors:

1. Tempered glass doors, wood or metal doors with tempered glass;
2. Metal doors;
3. Rolling overhead doors;
4. Solid overhead, swinging, sliding or accordion garage type doors;

(b) Doors with glass panels and doors that have glass panels adjacent to the door frame shall be secured as follows:

1. The glass panel shall be covered with iron bars of at least one-half inch round or 1 inch by one-fourth inch flat steel material spaced not more than 5 inches apart;
2. Iron or steel grills of at least one-eighth inch material of 2 inch mesh;
3. If the door or glass panel barrier is on the outside it shall be secured with rounded head flush bolt on the outside;
4. If the remaining portion of a door panel exceeding 8 inches by 12 inches (excluding

door frame) is of wood but not solid core construction, or is less than 1 3/8 inches thick, such portion shall be covered on the inside with at least 16 gauge sheet steel attached with screws;

(c) Wood doors not of solid core construction or with panels therein less than 1 3/8 inches thick shall be covered on the inside with at least 16 gauge sheet steel attached with screws;

(d) Locking devices:

1. A single door shall be equipped with either double cylinder dead lock that unlocks from both the outside and inside by key with cylinder dead lock that unlocks from the outside by key and inside by turn piece, handle or knob with dead locking latch having guarded bolt that unlocks from outside by key and inside by turn piece, handle or knob or with approved slide bar bolt, crossbar, and/or padlock. If padlock is used it shall be of hardened steel shackle with minimum 4 pin tumbler operation;

2. On double doors the active leaf shall be equipped with a type of lock as prescribed for single doors above; the inactive leaf shall be equipped with flush bolts at head and foot;

(e) Outside hinges on all rear, side and basement doors shall be provided with nonremovable pins. Such hinge pins may be either welded, flanged or secured by a screw.

(3) *Roof doors.* All doors that exit onto the roof of any such building or premises shall comply with the following requirements:

(a) Doors with glass panels and any glass panels that are adjacent to the door frame shall be protected as follows:

1. The glass portion shall be covered with iron or steel grills of at least 1/8 inch material of no more than 2 inch mesh, securely fastened;

2. If the door or glass panel barrier is on the outside it shall be secured with rounded head flush bolt on the outside;

3. If the remaining portion of a door panel exceeds 8 inches by 12 inches (excluding door frame) and is of wood but not of solid core construction, or is less than 1 3/8 inches thick, such portion shall be covered on the inside with at least 16 gauge sheet steel attached with screws;

(b) Wood doors not of solid core construction or with panels therein less than 1 3/8 inches thick shall be covered on the inside with at least 16 gauge sheet steel attached with screws;

(c) All roof doors shall be provided with a lock that will permit the door to be opened from the inside without the use of a key or any special knowledge or effort;

(d) Outside hinges on all roof doors shall be provided with nonremovable pins. Such hinge pins may be either welded, flanged or secured by a screw.

(4) *Glass windows.* The Chief of Police shall, with the advice and assistance of the Chief of the Fire Department, determine the extent of protection, if any, that will be required for accessible glass windows at the side or rear of such building. Glass windows shall be deemed accessible if less than 18 feet aboveground. In making his determination he shall consider whether the side of the building fronts on a street, the area, the location and the contents thereof, and whether, such openings are protected by intrusion detection devices.

(a) The Chief of Police may require side and rear glass windows with a pane exceeding 96 square inches in area with its smallest dimension exceeding 6 inches to be protected in the following manner:

1. Inside or outside iron bars to be at least 1/2 inch round or 1 inch by 1/4 inch flat steel material spaced not more than 5 inches apart, securely fastened; or

2. Inside or outside iron or steel grills of at least 1/8 inch material of 2 inch mesh securely fastened. If such barrier is on the outside it shall be secured with rounded head flush bolt on the outside.

(b) If the side or rear window is of the type that can be opened, it shall, where applicable, be secured on the inside with either a glide bar, bolt, crossbar and/or padlock with hardened steel shackle and minimum 4 pin tumbler operation.

(c) Outside hinges on all side and rear glass windows shall be provided with nonremovable pins. Such hinge pins may be either welded, flanged or secured by a screw.

(5) *Accessible transoms.* All exterior transoms exceeding 8 inches by 12 inches on the side and rear of any such building or premises shall be protected by either of the following:

(a) Outside iron bars of at least 1/2 inch round or 1 inch by 1/4 inch flat steel material spaced no more than 5 inches apart; or

(b) Outside iron or steel grills of at least 1/8 inch material but not more than 2 inch mesh. Such barrier shall be secured with rounded head flush bolts on the outside.

(6) *Roof openings.* All exterior openings on the roof of any such building or premises shall be protected as follows:

(a) Glass skylights shall be provided with:

1. Iron bars of at least 1/2 inch round or 1 inch by 1/4 inch flat steel material under the skylight and securely fastened; or



2. A steel grill of at least 1/8 inch material of 2 inch mesh under the skylight and securely fastened;

(b) Hatchway openings shall be secured as follows:

1. If the hatchway is of wooden material, it shall be covered on the inside with at least 16 gauge sheet steel attached with screws;

2. The hatchway shall be secured from the inside with a slide bar or slide bolts. The use of crossbar or padlock is unauthorized unless approved by the Chief of the Fire Department;

3. Outside hinges on all hatchway openings shall be provided with nonremovable pins. Such hinge pins may be either welded, flanged or secured by a screw;

(c) Air duct or air vent openings exceeding 8 inches by 12 inches shall be secured by covering the same with either of the following:

1. Iron bars of at least 1/2 inch round or 1 inch by 1/4 inch flat steel material spaced no more than 5 inches apart and securely fastened; or

2. A steel grill of at least 1/8 inch material of 2 inch mesh and securely fastened. If the barrier is on the outside it shall be secured with rounded head flush bolts on the outside.

(B) *Intrusion detection devices.*

(1) If it is determined by the Chief of Police that the security measures and locking devices prescribed in division (A) of this section do not adequately secure the building, he may require the installation and maintenance of photoelectric, ultrasonic or other intrusion detection devices. In making such determination he shall consider whether:

(a) The business establishment has experienced a high incidence of burglary in the past; or

(b) The type of merchandise and its inventory value require added security protection.

(2) If he determines that such installation is required, notice in writing shall be given to the responsible person designated in § 150.57, specifying

the installation to be made and the period of time within which such installation shall be completed. Unless an appeal is filed in accordance with § 150.60, failure to comply with such notice within the time specified shall be a violation of this subchapter.  
(1970 Code, § 6-31) (Ord. passed 11-6-1979)

#### **§ 150.60 APPEAL FROM INTRUSION DETECTION DEVICE REQUIREMENTS.**

Within 10 days after receipt of written notice from the Chief of Police requiring the installation and maintenance of photoelectric, ultrasonic or other intrusion detection device, the person responsible for compliance therewith may appeal in writing to the Common Council. In filing the appeal, the appellant shall set forth the specific grounds wherein it is claimed there was an error or abuse of discretion by the Chief of Police or wherein the issuance of such written notice was not supported by proper evidence. Upon receipt of such appeal, the Council shall in its discretion hear both sides of the contested issue and any evidence of the dispute. The Council may then affirm, reverse or modify the decision of the Chief of Police. If such decision is affirmed or modified, the appellant shall be given written notice thereof by the Chief of Police setting forth the installation to be made and the period of time within which the same shall be completed. In no event shall the period be less than that originally granted appellant. Failure to comply with such notice within the time specified shall be a violation of this subchapter.  
(1970 Code, § 6-32) (Ord. passed 11-6-1979)

#### **§ 150.99 PENALTY.**

(A) Whoever shall violate any provision of this section for which no specific penalty is provided shall be punished as set forth in § 10.99.

(B) Whoever violates any provision of §§ 150.35 *et seq.*, including any technical code adopted hereunder, shall, if no other penalty is provided, be fined not more than \$500 or confined to jail for a

period of not more than 30 days, or by both fine and jail.  
(1970 Code, § 6-25) (Ord. passed 6-6-1978)

(C) Anyone violating or failing to comply with the provisions of §§ 150.55 *et seq.* shall, upon conviction thereof, be punished by a fine of not more than \$500 or by imprisonment for not more than 30 days, or both such fine and imprisonment.  
(1970 Code, § 6-33) (Ord. passed 11-6-1979)



## **CHAPTER 151: FLOOD PLAIN MANAGEMENT**

### Section

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### ***GENERAL PROVISIONS***

#### **§ 151.001 INTENT.**

The intent of this chapter is to:

- (A) Promote the general health, welfare, and safety of the community.
- (B) Encourage the utilization of appropriate construction practices in order to prevent or minimize flood damage in the future.

(C) Minimize danger to public health and safety by protecting water supply, sanitary sewage disposal, and natural drainage.

(D) Reduce financial burdens imposed on the community, its governmental units, and its residents, by preventing the unwise design and construction of development in areas subject to flooding.  
(Ord. 2-91, passed 2-5-1991; Am. Ord. passed 11-4-2003)

## **§ 151.002 ABROGATION AND GREATER RESTRICTIONS.**

This chapter supersedes any ordinance currently in effect in flood prone areas. However, any ordinance shall remain in full force and effect to the extent that its provisions are more restrictive.  
(Ord. 2-91, passed 2-5-1991; Am. Ord. passed 11-4-2003)

## **§ 151.003 APPLICABILITY.**

(A) It shall be unlawful for any contractor, person, partnership, business, or corporation to undertake or cause to be undertaken, any development or the new construction, substantial improvement, the placement or relocation of any structure (including manufactured homes) within the City of Ravenswood unless a permit application has been completed and a permit has been obtained from the Floodplain Administrator. In addition, where land is to be subdivided, utilized for a manufactured home park or subdivision or otherwise developed, a site plan must be submitted to, and approved by, the Floodplain Administration prior to any development.

(B) Provision of all other codes, ordinances, and regulations shall be applicable insofar as they are consistent with the provisions of this chapter and the community's need to minimize the hazards and damage resulting from flooding.  
(Ord. 2-91, passed 2-5-1991; Am. Ord. passed 11-4-2003)

#### § 151.004 DEFINITIONS.

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

***APPURTENANT STRUCTURE.*** A structure which is on the same parcel of property as the principal structure and the use of which is incidental to the use of the principal structure.

***BASE FLOOD.*** The flood, which has been selected to serve as the basis upon which the floodplain management provisions of this and other ordinances have been prepared, for purposes of this chapter, the 100-year flood.

***BASEMENT.*** Any area of the building having its floor sub grade (below ground level) on all sides.

***CONTRACTOR.***

(1) A person who in any capacity for compensation, other than as an employee of another, undertakes, offers to undertake, purports to have the capacity to undertake, or submits a bid to construct, alter, repair, add to, subtract from, improve, move, wreck or demolish any building, highway, road, railroad, structure or excavation associated with a project, development or improvement, or to do any part thereof, including the erection of scaffolding or other structures or works in connection therewith, where the cost of the undertaking is one thousand dollars or more.

(2) ***CONTRACTOR*** includes a construction manager who performs management and counseling services for a construction project for a professional fee.

(3) ***CONTRACTOR*** does not include:

(a) One who merely furnishes materials or supplies without fabricating or consuming them in the construction project;



(b) A person who personally performs construction work on the site of real property which the person owns or leases whether for commercial or residential purposes;

(c) A person who is licensed or registered as a professional and who functions under the control of any other licensing or regulatory board, whose primary business is real estate sales, appraisal, development, management and maintenance, who acting in his or her respective professional capacity and any employee of such professional, acting in the course of his or her employment, performs any work which may be considered to be performing contracting work;

(d) A pest control operator licensed to engage in the application of pesticides for hire, unless the operator also performs structural repairs exceeding \$1,000 on property treated for insect pests; or

(e) A corporation, partnership or sole proprietorship whose primary purpose is to prepare construction plans and specifications used by the contractors defined in subsection (c) of this section and who employs full time a registered architect licensed to practice in this state or a registered professional engineer licensed to practice in this state. Employees of such corporation, partnership or sole proprietorship shall also be exempt from the requirements of this chapter.

(W.V. Code § 21-11-3(c))

**DEVELOPMENT.** Any man-made change to improved or unimproved real estate, including but not limited to buildings or other structures, mining, dredging, filling, grading, paving, excavation or drilling operations or storage of equipment or materials.

**EXISTING MANUFACTURED HOME PARK OR SUBDIVISION.** A manufactured home park or subdivision for which the construction of facilities for servicing the lot on which the manufactured homes are to be affixed (including, at a minimum, the installation

of utilities, the construction of streets, and either final site grading or the installation of concrete pads) is completed before March 18, 1991 the effective date of the original Ordinance.

***EXPANSION TO AN EXISTING MANUFACTURED HOME PARK OR SUBDIVISION.*** The preparation of additional sites by the construction of facilities for servicing the lot on which the manufactured homes are to be affixed (including the installation of utilities, the construction of streets, and either final site grading or the installation of concrete pads).

***FLOOD.*** A general and temporary inundation of normally dry land areas.

***FLOODPLAIN.***

(1) A relatively flat or low land area adjoining a river, stream, or watercourse which is subject to partial or complete inundation;

(2) An area subject to the unusual and rapid accumulation or runoff of surface waters from any source.

***FLOODPLAIN ADMINISTRATOR.*** The Mayor of the city shall be the Floodplain Administrator. The Mayor may delegate this authority to others as deemed appropriate.

***FLOODWAY.*** The channel of a river or other watercourse and the adjacent land area that must be reserved to discharge the base flood without increasing the water surface elevation of that flood more than one foot at any point.

***FLOOD PROOFING.*** Any combination of structural and non-structural additions, changes or adjustments to structures which reduce or eliminate flood damage to real estate or improved real property, water and sanitary facilities, structures and their contents.

***HISTORIC STRUCTURE.*** Any structure that is:

(1) Listed individually in the National Register of Historic Places (a listing maintained by the Department of Interior) or preliminarily determined by the Secretary of the Interior as meeting the requirements for individual listing on the National Register;

(2) Certified or preliminarily determined by the Secretary of the Interior as contributing to the historical significance of a registered historic district or a district preliminarily determined by the Secretary to qualify as a registered historic district;

(3) Individually listed on a state inventory of historic places in states with historic preservation programs which have been approved by the Secretary of the Interior; or

(4) Individually listed on a local inventory of historic places in communities with historic preservation programs that have been certified either:

(a) By an approved state program as determined by the Secretary of the Interior; or

(b) Directly by the Secretary of Interior in states without approved programs.

***LICENSED MANUFACTURED HOME DEALER.*** A business licensed to sell manufactured homes in the state of West Virginia as set forth in W.V. Code § 21-9.

***LICENSED MANUFACTURING HOME INSTALLER.*** A contractor licensed to install manufactured homes in West Virginia as set forth in W.V. Code § 21-9.

***LICENSED PROFESSIONAL SURVEYOR.*** Any person licensed by the State Board of examiners of Land Surveyors to engage in the practice of land surveying as defined in W.V. Code Article 13a.

***LOWEST FLOOR.*** The lowest floor of the lowest enclosed area (including basement). An unfinished enclosure constructed with flood resistant materials as defined in the FEMA Technical Bulletin

2-93 (FIA-TB-2) and usable solely for parking of vehicles, building access or storage in an area other than a basement area is not considered a building's lowest floor; provided, that such enclosure is not built so as to render the structure in violation of the applicable non-elevation design requirements of this chapter.

**MANUFACTURED HOME.** A structure, transportable in one or more sections, which is built on a permanent chassis and is designed for use with or without a permanent foundation when connected to the required utilities. The term **MANUFACTURED HOME** does not include a **RECREATIONAL VEHICLE**.

**MANUFACTURED HOME PARK OR SUBDIVISION.** A parcel (or contiguous parcels) of land divided into two or more manufactured home lots for rent or sale.

**NEW CONSTRUCTION.** Structures for which the Start of Construction as herein defined commenced on or after the effective date of the original Ordinance dated March 18, 1991 and including any subsequent improvements to such structures.

**NEW MANUFACTURED HOME PARK OR SUBDIVISION.** A manufactured home park or subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) is completed on or after the effective date of the original Ordinance dated March 18, 1991

**ONE-HUNDRED (100) YEAR FLOOD.** A flood that has one chance in one-hundred or a one percent chance of being equaled or exceeded in any given year.

**PRACTICE OF ENGINEERING.**

(1) Any service or creative work, as described in W.V. Code Article 13, the adequate performance of which requires engineering education,

training and experience in the application of special knowledge of the mathematical, physical and engineering sciences to such services or creative work as consultation, investigation, evaluation, planning and design of engineering works and systems; planning the use of land and water; teaching of advanced engineering subjects, engineering surveys and studies; and the review of construction for the purpose of assuring compliance with drawings and specifications any of which embraces such services or work, either public or private, in connection with any utilities, structures, buildings, machines, equipment, process, work systems, projects and industrial or consumer products or equipment of a mechanical, electrical, hydraulic, pneumatic or thermal nature, insofar as they involve safeguarding life, health or property, and including such other professional services as may be necessary to the planning, progress and completion of any engineering services. Engineering surveys include all survey activities required to support the sound conception, planning, design, construction, maintenance and operation of engineered projects.

(1) Any person who practices any branch of the profession of engineering or who, by verbal claim, sign, advertisement, letterhead, card or in any other way represents himself or herself to be a registered professional engineer, or by using another title implies that he or she is a registered professional engineer or that he or she is registered under W.V. Code Article 13 or who holds himself or herself out as able to perform, or who performs any engineering service or work or any other service designated by the practitioner which is recognized as engineering, is considered to practice or offer to practice engineering within the meaning and intent of W.V. Code Article 13.

**PERSON.** Any individual or group of individuals, corporation, partnership, association or other entity, including state and local governments and agencies.

**PRINCIPALLY ABOVE GROUND.** Where at least 51% of the actual cash value of a structure, less land value, is above ground.

**RECREATIONAL VEHICLE.** A vehicle which is:

- (1) Built on a single chassis;
- (2) Four-hundred square feet or less when measured at the largest horizontal projection;
- (3) Designed to be self-propelled or permanently towable by a light duty truck; and
- (4) Designed primarily not for use as a permanent dwelling but as temporary living quarters for recreational, camping, travel, or seasonal use.

**REGISTERED PROFESSIONAL ENGINEER.** A person who has been duly registered or licensed as a registered professional engineer by the West Virginia state board of registration for professional engineers as required under W.V. Code Article 13 *et seq.*

**REMEDY A VIOLATION.** To bring a structure or other development into compliance with the requirements of this chapter, or, if full compliance is not possible, to reduce the adverse impacts of the non-compliance to the greatest extent feasible.

**START OF CONSTRUCTION.** (The definition for **START OF CONSTRUCTION** is to be used only when calculating the starting time of the six month expiration of a permit.) For other than new construction or substantial improvements under the Coastal Barrier Resources Act, Pub Law 97-348, being 16 USC 3501 *et seq.*, includes substantial improvements, and means the date the building permit was issued, provided the actual start of construction, repair, reconstruction, rehabilitation, addition, placement or other improvement was within 180 days of the permit date. The actual start means either the first placement of permanent construction of a structure on a site, such as the pouring of slab or footings, the installation of piles, the construction of columns, or any work beyond the stage of excavation; or the placement of a manufactured home on a foundation. Permanent construction does not include land preparation, such as clearing, grading and filling;

nor does it include the installation of streets and/or walkways; nor does it include excavation for a basement, footings, piers, or foundations or the erection of temporary forms; nor does it include the installation on the property of accessory buildings, such as garages or sheds not occupied as dwelling units or not part of the main structure. For a substantial improvement, the actual start of construction means the first alteration of any wall, ceiling, floor, or other structural part of a building whether or not that alteration affects the external dimensions of the building.

**STATE COORDINATING OFFICE.** The West Virginia Office of Emergency Services.

**STREAM.** Any watercourse, whether natural or man-made, distinguishable by banks and a bed, regardless of their size, through which water flows continually or intermittently, regardless of its volume.  
(W.V. Code § 7-1-3U)

**STRUCTURE.** A walled and roofed building, including a gas or liquid storage tank that is principally above ground, as well as a manufactured home.

**SUBSTANTIAL DAMAGE.** Damage to any origin sustained by a structure whereby the cost of restoring the structure to its before damage condition would equal or exceed 50% of the market value of the structure before the damage occurred.

**SUBSTANTIAL IMPROVEMENT.** Any repair, reconstruction, rehabilitation, addition, or other improvement of a structure, the cost of which equals or exceeds 50% of the market value of the structure before the start of construction of the improvement. This term includes structures, which have incurred **SUBSTANTIAL DAMAGE**, as defined herein regardless of the actual repair work performed. The term does not, however, include either:

(1) Any project for improvement of a structure to correct existing violation of state or local health, sanitary or safety code specifications which have been identified by the local code enforcement

official and which are the minimum necessary to assure safe living conditions; or

(2) Any alteration of a **HISTORIC STRUCTURE**, provided that the alteration will not preclude the structures continued designation as a **HISTORIC STRUCTURE**.

**FREEBOARD.** A factor of safety usually expressed in feet above a flood level for purposes of floodplain management. Freeboard tends to compensate for unknown factors that may contribute uncertainty to flood heights of any given flood and floodway condition, such as wave action, bridge openings, and the hydrological effect of urbanization of the watershed.

**VIOLATION.** The failure of any structure or development to be fully compliant with all requirements of this chapter.

(Ord. 2-91, passed 2-5-1991; Am. Ord. passed 11-4-2003)

#### **§ 151.005 APPEALS.**

Whenever any person is aggrieved by a decision of the Floodplain Administrator with respect to the provision of this chapter, it is the right of that person to appeal to the Common Council which shall be known as the Appeals Authority. Such appeal must be filed, in writing, within 30 days after notification of the decision. Upon receipt of such appeal, the Appeals Authority shall set a time and place not less than 30 nor more than 60 days for the purpose of hearing the appeal. Notice of the time and place of the hearing shall be given to all parties at which time they may appear and be heard. The determination by the Appeals Authority shall be final in all cases.

(Ord. 2-91, passed 2-5-1991; Am. Ord. passed 11-4-2003)

#### **§ 151.006 APPEALS REVIEW CRITERIA.**

(A) All appeals contesting only the permit fee may be handled at the discretion of the Appeals Authority.

(B) All decisions on appeals to all other provisions of this chapter shall adhere to the following criteria:

(1) Affirmative decisions shall only be issued by the Appeals authority upon (i) a showing of good and sufficient cause, (ii) a determination that failure to grant the appeal would result in exceptional hardship to the applicant, and (iii) a determination that the granting of an appeal will not result in increased flood heights, additional threats to public safety, extraordinary public expense, create nuisances, cause fraud on or victimization of the public or conflict with existing local laws or ordinance.

(2) An affirmative decision shall be issued only upon determination that it is the minimum necessary, considering the flood hazard, to afford relief. Financial hardship, as a sole criterion, shall not be considered sufficient justification to grant an appeal.

(3) An affirmative decision shall be issued for the repair or rehabilitation of historic structures upon a determination that the proposed repair or rehabilitation will not preclude the structure's continued designation as a historic structure and the variance is the minimum necessary to preserve the historic character and design of the structure.

(4) The Appeals Authority shall notify the applicant in writing over the signature of a community official that (i) the issuance of a decision to allow construction of a structure below the Base Flood Elevation will result in increased premium rates for flood insurance, (ii) such construction below the Base Flood Elevation increases risk to life and property. Such notifications shall be maintained with a record of all decisions as required in paragraph (4) of this section; and



(5) The Appeals Authority shall (i) maintain a record of all decisions including justification for their issuance, and (ii) report such decisions issued in its biannual report to the Federal Insurance Administration.

(6) An affirmative decision shall not be granted for any construction, development, use or activity within any floodway area that would cause any increase in the Base Flood Elevation.  
(Ord. 2-91, passed 2-5-1991; Am. Ord. passed 11-4-2003)

**§ 151.007 SITING OF WIRELESS TELECOMMUNICATIONS FACILITIES ORDINANCE ADOPTED.**

The Siting of Wireless Telecommunications Facilities Ordinance is hereby adopted by reference and made a part of this code. Copies are available for inspection in the office of the City Clerk during regular office hours.  
(Ord. passed 3-2-2004)

***FLOODPLAIN AREA***

**§ 151.020 IDENTIFICATION.**

The identified floodplain area shall be those areas of the city which are subject to the 100-year flood, as shown on the Flood Insurance Rate Map (FIRM) and described on the Flood Insurance Study (FIS) prepared for the city by the Federal Emergency Management Agency (FEMA) dated February 18, 2004 or the most recent revision thereof.  
(Ord. 2-91, passed 2-5-1991; Am. Ord. passed 11-4-2003)

**§ 151.021 DESCRIPTION OF FLOODPLAIN AREAS.**

The identified floodplain shall consist of the following four specific areas:

(A) The Floodway area (F1) shall be those areas identified as such in the FIS and as shown on the floodway map or FIRM. The term shall also include floodway areas identified in other studies for the

approximated area discussed in division (D) below. Studies, analyses, computations, and the like, shall be submitted in sufficient detail to allow a thorough technical review by the Floodplain Administrator for floodway areas identified in approximated areas discussed in division (D) below.

(B) The Floodway Fringe area (F2) shall be those areas for which specific 100-year flood elevations have been provided in the FIS but which lie beyond the floodway area. The areas are shown on the floodway map or FIRM.

(C) The AE Area without Floodway (F3) shall be those areas identified as an AE Zone on the FIRM included in the FIS prepared by for which 100-year flood elevations have been provided in the FIS but no Floodway has been delineated.

(D) The Approximated area (F4) shall be those areas identified as an A Zone on the FIRM or floodway map included in the FIS prepared by FEMA and for which no 100-year flood elevations have been provided. For these areas, elevation and floodway information from other Federal, State, or other acceptable source shall be used when available. Where other acceptable information is not available, the elevation shall be determined by using the elevation of a point on the boundary of the identified floodplain area, which is nearest the construction site. The Floodplain Administrator may require the applicant to determine the elevation with hydrologic and hydraulic engineering techniques. Only professional engineers or others of demonstrated qualifications shall undertake hydrologic and hydraulic analyses. The responsible professional shall certify that the technical methods used correctly reflect currently accepted technical concepts. The resultant study shall include a cover letter, signed by the responsible professional, providing a statement of findings in basic terms. In addition, studies, analyses, computation, and the like, shall be submitted in sufficient detail to allow a thorough technical review by the city.

(Ord. 2-91, passed 2-5-1991; Am. Ord. passed 11-4-2003)

## **§ 151.022 CHANGES IN DESIGNATION OF AREA.**

The delineation of the identified floodplain area may be revised by the city where natural or man-made changes have occurred and/or more detailed studies conducted or undertaken by the U.S. Army Corps of Engineers, a River Basin Commission or other qualified agency or individual document the necessity for such changes. The community may delineate new approximated areas by using simplistic methods involving locally derived information, such as flood of record and topographic data. However, prior to any such change, approval must be obtained from the Federal Insurance Administration (FIA).  
(Ord. 2-91, passed 2-5-1991; Am. Ord. passed 11-4-2003)

## **§ 151.023 ELEVATIONS PREVAIL.**

(A) If the lowest natural grade adjacent to a proposed building site that is within the flood plain area is at or above the base flood elevation specified in the Flood Insurance Study, the structure shall not be required to conform to the Design and Construction Standards or Flood-Related Building Codes in § 151.070. Topographic data certified by a registered professional engineer or surveyor shall be submitted in sufficient detail to allow a thorough review by the Floodplain Administrator. The applicant is advised to apply for a Letter of Map Amendment (LOMA) from FEMA to have the Special Flood Hazard Area designation removed from the parcel or structure.

(B) If the lowest natural grade adjacent to a proposed building site that is outside of, but adjacent to, the floodplain area is below the base flood elevation specified in the Flood Insurance Study, the site shall be considered to be within the floodplain area and the proposed structure shall be required to conform with all appropriate provisions of this chapter.

(Ord. 2-91, passed 2-5-1991; Am. Ord. passed 11-4-2003)

#### **§ 151.024 BOUNDARY DISPUTES.**

Should a dispute concerning any district boundary arise, an initial determination shall be made by the Floodplain Administrator and any party aggrieved by this decision may appeal to the Town Council. The burden of proof shall be on the appellant/applicant.

(Ord. 2-91, passed 2-5-1991; Am. Ord. passed 11-4-2003)

### ***UTILIZATION OF THE FLOODPLAIN AREA***

#### **§ 151.035 FLOODWAY (F1).**

(A) Within any floodway area (F1), no encroachments, including fill, new construction, substantial improvements, or other development shall be permitted unless it has been demonstrated through hydrologic and hydraulic analysis performed in accordance with standard engineering practice that the proposed encroachment will not result in any increase in the base flood elevation. All uses, activities, and other developments shall be undertaken in strict compliance with the flood proofing and related provisions contained herein, and in all other applicable codes, ordinances and regulations.

(B) The floodway shall be preserved to carry the discharge of the base flood to the greatest extent possible. Floodways present increased risk to human life and property because of their relatively faster and deeper flowing waters. New development shall not be permitted in the floodway where reasonable alternatives exist elsewhere. In addition to the above requirements the applicant shall demonstrate that there are no reasonable alternatives other than the floodway encroachment before a permit is issued. If the floodway is the only reasonable alternative the applicant shall demonstrate that the floodway encroachment is the minimum necessary to accomplish the project.

(Ord. 2-91, passed 2-5-1991; Am. Ord. passed 11-4-2003)

**§ 151.036 FLOODWAY FRINGE (F2) AND APPROXIMATED FLOODPLAIN (F4).**

In the Floodway Fringe (F2) and Approximated Floodplain (F4), any development and/or use of land shall be permitted provided that all such uses, activities and/or development shall be undertaken in strict compliance with the flood-proofing and related provisions contained herein and in all other applicable codes, ordinances and regulations. All subdivision proposals and other proposed new developments which are proposed to take place either fully or partially within the approximated floodplain area (F4) and which are greater than 50 lots of five acres, whichever is the lesser, shall include base flood elevation data. This data may be provided by an authoritative source, such as the U.S. Army Corps of Engineers, U.S. Geological Survey, Natural Resource Conservations Service or state and local water resource department. If the required data is not available from other sources the applicant shall develop the technical data using detailed methodologies comparable to those contained in a Flood Insurance Study. This data shall be prepared and certified by a registered professional engineer or others of demonstrated qualifications, who shall certify that the technical methods used correctly reflect currently accepted technical concepts.

(Ord. 2-91, passed 2-5-1991; Am. Ord. passed 11-4-2003)

**§ 151.037 AE AREA WITHOUT FLOODWAY (F3).**

Within any AE area, no new construction or development shall be allowed unless it is demonstrated that the cumulative effect of the proposed development, when combined with all other existing and anticipated development, will not increase the elevation of the 100-year flood more than one foot at any point. This requirement can be satisfied by utilization of the floodway area where determined.

(Ord. 2-91, passed 2-5-1991; Am. Ord. passed 11-4-2003)

**§ 151.038 ALTERATION OR RELOCATION OF A WATERCOURSE.**

(A) Whenever a developer intends to alter (including placement of bridges, culverts or other stream crossings) or relocate a watercourse within the Floodplain Area, the developer shall notify in writing, by certified mail, the City of Ravenswood Floodplain Administrator at 212 Walnut Street, Ravenswood, WV 26164. The W.V. Office of Emergency Service as State Coordinating Office at Building 1 Room EB-80, 1900 Kanawha Blvd., Charleston, WV 25305-0360 and any adjacent communities of all such intended activities prior to the alteration or relocation of the watercourse, and shall submit copies of such notification to the Federal Insurance Administration c/o FEMA, One Independent Mail, Sixth Floor, 615 Chestnut Street, Philadelphia, PA 19106-4404. Stream access permits for City of Ravenswood may be obtained by contacting Western Soil Conservation District, 224C First Street, Point Pleasant, WV 25550, (304) 675-3054 or (304) 558-2204. Additional permits may be required from other agencies.

(B) The developer shall also assure the city in writing that the carrying capacity within the altered or relocated portion of stream will be maintained. The Floodplain Administrator may require the applicant to demonstrate that the altered or relocated portion will provide equal or greater conveyance than the original stream segment. If hydrologic and hydraulic analyses are required, they shall be undertaken only by professional engineers or others of demonstrated qualifications, who shall certify that the technical methods used correctly reflect currently accepted professional practice. The resultant study shall include a cover letter, signed by the responsible professional, providing a statement of findings in basic terms. In addition, studies, analyses, computations, and the like shall be submitted in sufficient detail to allow a thorough technical review by the Floodplain Administrator.

(C) The Floodplain Administrator may require the use of certain “best practice” techniques in the construction of bridges, culverts or stream alterations to prevent localizing flooding caused by blockages.

These techniques may include, but are not limited to, wing walls, trash grates or sizing openings to carry anticipated future increases in flood heights.

(D) The developer is required to provide the community a legal agreement detailing all scheduled inspections and maintenance to be performed on altered or relocated watercourses including culverts and bridges. It shall be the responsibility of the applicant to transfer this agreement to the new owner when the land associated with the watercourse alteration is transferred. A copy of all new agreements shall be provided to the floodplain manager.

(E) The applicant must submit any maps, computations or other material required by the Federal Emergency Management Agency (FEMA) to revise the Flood Insurance Study and/or Flood Insurance Rate Maps, when notified by the Floodplain Administrator. and must pay any fees or other costs assessed by FEMA for this purpose.

(Ord. 2-91, passed 2-5-1991; Am. Ord. passed 11-4-2003)

### ***CRITERIA FOR BUILDING AND SITE PLAN APPROVAL***

#### **§ 151.050 GENERAL.**

Building permits are required in order to determine whether all new construction or substantial improvements are:

(A) Located in the identified floodplain or floodway.

(B) Designed (or modified) and adequately anchored to prevent flotation, collapse, or lateral movement of the structure resulting from hydrodynamic and hydrostatic loads, including the effects of buoyancy.

(C) Constructed with material and utility equipment resistant to flood damage as outlined in



FEMA Technical Bulletin 2-93 (FIA-TB-2) or the most recent revision thereof.

(D) Constructed by methods and practices that minimize flood damage.

(E) Constructed with electrical, heating, ventilation, plumbing and air conditioning equipment and other service facilities that are designed and/or located so as to prevent water from entering or accumulating within the components during conditions of flooding.

(Ord. 2-91, passed 2-5-1991; Am. Ord. passed 11-4-2003)

#### **§ 151.051 BASIC FORMAT.**

The basic format of the building permit shall include the following:

(A) Name and address of applicant;

(B) Name and address of owner of land on which proposed construction is to occur;

(C) Name, address, and valid West Virginia license number of contractor, unless work is being performed by individuals exempt from contractor licensing as set forth in the W.V. Code Title 28, Series 2, section 39 (h);

(D) Site location;

(E) Copy of the contract required by W.V. Code, Title 28, Series 4, and copies of addendums to the contract shall be provided to the Floodplain Manager within five business days of their issuance. Failure to provide addendums may void the permit. If a licensed contractor is not involved or the work is of an aggregate value of less than \$10,000, including materials and labor a brief description of proposed work and the estimated cost will suffice;

(F) A plan of the site showing the exact size and location of the proposed construction as well as any existing buildings or structures.

(Ord. 2-91, passed 2-5-1991; Am. Ord. passed 11-4-2003)

#### **§ 151.052 ELEVATION AND FLOOD PROOFING INFORMATION.**

All applicants are encouraged to exceed the minimum elevation requirements contained herein. Flood insurance rates should be lowered significantly by increasing the elevation above the height required by this chapter. Depending on the type of structure involved, the following information shall also be included in the application for work within the floodplain area:

(A) For structures to be elevated to two feet above the base flood elevation:

(1) A plan showing the size of the proposed structure and its relation to the lot where it is to be constructed.

(2) A determination of elevations of the existing ground, proposed finished ground and lowest floor, certified by a Registered Professional Engineer, Surveyor, or Architect.

(3) Plans showing the method of elevating the proposed structure including details of proposed fills, pile structures, retaining walls, foundations, erosion protection measures, and the like. When required by the Floodplain Administrator, a Registered Professional Engineer or Architect shall prepare these plans.

(4) Plans showing the methods used to protect utilities (including sewer, water, telephone, electric, gas, and the like) from flooding to the base flood elevation at the building site.

(5) During the course of construction, as soon as the basic elements of the lowest floor are in place and before further vertical construction, the applicant shall submit an Elevation Certificate listing the “as built” height of the lowest floor. This Elevation Certificate shall be completed by a Registered Professional Engineer, Surveyor, or Architect.

(6) A nonconversion agreement shall be signed by the applicant whenever the area below the

first floor is five feet or more in height. This agreement shall state:

(a) The area below base flood elevation shall not be converted for use other than for parking, building access or allowable storage as detailed in § 151.070(H).

(b) The applicant agrees to notify prospective buyers of the existence of this agreement. It shall be the responsibility of the applicant to transfer the agreement at closing to the new owner via notarized signature, a copy of all new agreements shall be provided to the Floodplain Administrator.

(B) For structures to be flood proofed to two feet above the base flood elevation (nonresidential structures only): All applicants are encouraged to exceed the minimum flood proofing requirements contained herein. Flood insurance rates should be lowered significantly by increasing the level of flood proofing above the height required by this chapter. In order to obtain the standard rate on flood insurance for flood proofed buildings, flood proofing must extend one foot above the base flood elevation.

(1) Plans showing details of all flood proofing measures, prepared by a Registered Professional Engineer or Architect, showing the size of the proposed structure and its relation to the lot where it is to be constructed.

(2) A determination of elevations of existing ground, proposed finished ground, lowest floor, and flood proofing limits; certified by a Registered Professional Engineer, Surveyor, or Architect.

(3) A Flood Proofing Certificate, FEMA 81-65, as revised by FEMA, shall be prepared by the Registered Professional Engineer or Architect who prepared the plans in subsection (1) above, stating the structure in question, together with attendant utility and sanitary facilities is designed so that:

(a) Below the base flood elevation the structure is water tight with walls substantially impermeable to the passage of water.

(b) The structure will withstand the hydrostatic, hydrodynamic, buoyant, impact, and other forces resulting from the flood depths, velocities, pressures, and other factors associated with the base flood.

(C) For structures constructed of flood resistant materials—used solely for parking of vehicles, or storage, (appurtenant structures only):

(1) Plans showing details of all flood proofing measures and showing the size of the proposed structure and its relation to the lot where it is to be constructed.

(2) A completed Elevation Certificate showing elevations of existing ground, proposed finished ground, and lowest floor.

(3) A certificate must be prepared by the Floodplain Administrator, that confirms that the structure in question, together with attendant utilities is designed so that:

(a) Flood resistant materials are used from two feet above the base flood elevation down and that all utilities are located at least two feet above the base flood elevation.

(b) Hydrostatic flood forces on exterior walls are equalized by allowing for automatic entry and exit of floodwaters. Designs for meeting this requirement must either be certified by a Registered Professional Engineer or Architect or meet or exceed the following minimum criteria:

1. A minimum of two openings having a total net area of not less than one square inch for every square foot of enclosed area subject to flooding shall be provided.

2. The bottom of all openings shall be no higher than one foot above grade.

3. Openings may be equipped with screens, louvers, valves or other coverings or devices provided that they permit the automatic entry and exit of floodwaters.

(c) A Non-conversion Agreement as detailed in § 151.070(C) shall be signed by the applicant.

(D) The applicant agrees to notify prospective buyers of the existence of this agreement. It shall be the responsibility of the applicant to transfer the agreement at closing to the new owner via notarized signature, a copy of the new agreement shall be provided to the floodplain manager.  
(Ord. 2-91, passed 2-5-1991; Am. Ord. passed 11-4-2003)

#### **§ 151.053 SITE PLAN CRITERIA.**

The owner or developer of any proposed subdivision, manufactured home park or other development shall submit a preliminary plat (site plan) to the Floodplain Administrator that includes the following information:

(A) Name of engineer, surveyor, or other qualified person responsible for providing the information required in this section.

(B) A map showing the location of the proposed subdivision and/or development with respect to the town's floodplain areas, proposed lots sites, and fills. In addition, it is required that all subdivision proposals and other proposed new developments which are proposed to take place either fully or partially within the Approximated floodplain (F4) and which are greater than 50 lots or five acres, whichever is the lesser, shall include base flood elevation data. If FEMA has completed a Flood Insurance Study (FIS), that data must be used to substantiate the base flood. Otherwise, the developer may submit data provided by an authoritative source, such as U.S. Army Corps of Engineers, U.S. Geological Survey, Natural Resources Conservation Service, state and local water resource departments, or technical data developed using detailed methodologies comparable to those contained in a Flood Insurance Study. This data shall be prepared and certified by a registered professional engineer or others of demonstrated qualifications, who shall certify that the technical methods used correctly reflect currently accepted technical concepts.

(C) Where the subdivision and/or development lies partially or completely in the floodplain areas, the plan map shall include detailed information giving the location and elevation of proposed roads, public utilities and building sites. All such maps shall also show contours at intervals of two or five feet depending upon the slope of the land and identify accurately the boundaries of the floodplain areas.

(D) Where the subdivision lies partially in the floodplain area but all proposed development can be demonstrated to take place outside of the floodplain area, development of detailed base flood elevation data may not be necessary. In these cases the site plan for the proposed development must clearly delineate the area to be developed and the location of the floodplain areas as depicted on the FEMA map. A registered professional engineer, licensed professional surveyor or others of demonstrated qualifications must certify the site plan.  
(Ord. 2-91, passed 2-5-1991; Am. Ord. passed 11-4-2003)

#### **§ 151.054 FLOOD PROTECTION SETBACK REQUIREMENT.**

(A) Necessary public works and temporary construction may be exempted from this section.

(B) A flood protection setback equal to 25 feet from the top of the bank shall be maintained from the top of the banks of all watercourses shown on the FIRM or floodway maps. To reduce erosion, natural vegetation shall be maintained in this area. Where natural vegetation does not exist along the watercourse, and conditions for replanting are suitable, high priority shall be given to planting vegetation in the setback area to stabilize banks and enhance aquatic resources.

(C) The Floodplain Administrator may consider an appeal to the flood protection setback requirement if the applicant demonstrates that it is impossible to allow any development without encroachment into the flood protection setback area. The appeal conditions shall be the minimum necessary and shall be made only after due consideration is given to varying other

sitting standards, such as side, front and back lot line setbacks.  
(Ord. 2-91, passed 2-5-1991; Am. Ord. passed 11-4-2003; Am. Ord. passed 12-16-2003)

### ***SPECIFIC REQUIREMENTS***

#### **§ 151.070 DESIGN AND CONSTRUCTION STANDARDS.**

In order to prevent excessive damage to buildings, structures, and related utilities and facilities, the following restrictions apply to all development, subdivision proposals, manufactured home parks, new construction and to construction of substantial improvements to existing structures occurring in the floodplain area.

*(A) Basements and lowest floors.*

(1) All new construction, relocation, and substantial improvements of residential structures must have the lowest floor (including basement, ductwork and utilities) elevated to two feet above the base flood elevation.

(2) All new construction, relocation, and substantial improvements of nonresidential structures must have the lowest floor (including basement, ductwork, and utilities) elevated to two feet above the base flood elevation; or, together with attendant utility and sanitary facilities, be designed so that below the base flood elevation the structure is flood proofed in accordance with § 151.052(B).

(3) For all new construction, relocation, and substantial improvements, those fully enclosed areas below the lowest floor that are usable solely for parking of vehicles, building access or storage in an area other than a basement and which are subject to flooding shall be designed to automatically equalize hydrostatic flood forces on exterior walls by allowing for entry and exit of floodwaters. Designs for meeting this requirement must either be certified by a

Registered Professional Engineer or Architect or meet or exceed the following minimum criteria:

(a) A minimum of two openings having a total net area of not less than one square inch for every square foot of enclosed area subject to flooding shall be provided.

(b) The bottom of all openings shall be no higher than one foot above grade.

(c) Openings may be equipped with screens, louvers, valves, or other coverings or devices provided that they permit the automatic entry and exit of floodwaters.

(B) *Manufactured home placement.*

(1) Manufactured homes to be placed or substantially improved within the floodplain area shall: When the manufactured home is NOT purchased from a licensed manufactured home dealer or placed, leveled or substantially improved by a licensed manufactured home installer. The manufactured home must:

(a) Be elevated on reinforced piers or other foundation elements of at least equivalent strength on a permanent foundation so that the lowest floor including ductwork and utilities is elevated to two feet above the base flood elevation, dry stacked block will not satisfy this requirement unless approved and sealed by a licensed engineer; and

(b) Be securely anchored to an adequately anchored foundation system to resist flotation, collapse and lateral movement.

(2) When a manufactured home is purchased from a licensed manufactured home dealer or placed, leveled or substantially improved by a licensed manufactured home installer. The manufactured home must:

(a) Comply with the requirements of 42 CSR Series 19, Sections 10.1, 10.2 and 10b as authorized by W.V. Code § 21-9. One of the three

following methods must be used to install the manufactured home.

1. Manufacturer's installation manual—this method may be used only if the manufacturer's installation manual explicitly states that the installation design is approved for use in a flood hazard or floodplain area.

2. ANSI 225.1 standard installation method, this standard is for use only outside of flood hazard areas. The specifications explicitly state that a registered professional engineer's design is required to install a manufactured home in a floodplain.

3. Installation using a design approved and sealed by a licensed professional engineer for use in a flood hazard area.

- (3) Regardless of the method chosen for installation, all manufactured homes must be securely anchored to an adequate anchored foundation system to resist flotation, collapse and lateral movement.

(C) *Appurtenant structures.*

- (1) Where feasible, appurtenant structures and detached and attached garages shall be located out of the floodplain area or elevated to two feet above the base flood elevation.

- (2) Where appurtenant structures are to be located on sites below the base flood elevation, the following flood damage reduction provisions apply:

- (a) Structures shall be no more than 600 square feet in size.
- (b) Floors shall be at or above grade on at least one side.
- (c) Structures shall be located, oriented and constructed to minimize flood damage.
- (d) Structures shall be designed (or modified) and adequately anchored to prevent



flotation, collapse, or lateral movement of the structure resulting from hydrodynamic and hydrostatic loads, including the effects of buoyancy.

(e) Flood resistant materials as detailed in FEMA Technical Bulletin 2-93 (FIA-TB-2) shall be used in the construction of the structure from two feet above the base flood elevation down.

(f) Machinery, electric devices or appliances, and all utilities shall be located at least two feet above the base flood elevation.

(g) The venting requirements contained in § 151.070(A) are applicable and shall be strictly adhered to.

(3) A Nonconversion Agreement shall be signed by the applicant stating that the use of the appurtenant structure or detached or attached garage shall not be changed from the use permitted, acknowledging that the structure may be subject to greater flood risk and that higher flood insurance premiums may be possible, and that a change in use may require full compliance with this chapter. The applicant agrees to notify prospective buyers of the existence of this agreement. It shall be the responsibility of the applicant to transfer the agreement at closing to the new owner via notarized signature, a copy of all new agreements shall be provided to the Floodplain Administrator.

(D) *Recreational vehicle placement.* Recreational vehicles to be placed within any floodplain area shall either:

(1) Be on site for fewer than 180 consecutive days; and

(2) Be fully licensed and ready for highway use or meet the provision of § 151.070(B)(1). A recreational vehicle is ready for highway use if it is on its wheels or jacking system, is attached to the site only by quick disconnect utilities and security devices, and has no permanently attached additions.

(E) *Fill.* The city officially recognizes the natural and beneficial functions of the floodplain thus

placement of fill in the floodplain area is discouraged and should be minimized. In the floodway, no fill shall be permitted unless it meets the requirements of § 151.035. All fill placed in the floodplain area shall meet or exceed the following standards:

(1) Fill shall be used only to the extent to which it does not adversely affect adjacent properties. The city may require the applicant to show through hydrologic and hydraulic engineering techniques that proposed fill will not adversely affect adjacent properties. Hydrologic and hydraulic analyses shall be undertaken only by professional engineers and others of demonstrated qualifications, who shall certify that the technical methods used correctly reflect currently accepted technical concepts. The resultant study shall include a cover letter, signed by the responsible professional, providing a statement of findings in basic terms. In addition, studies, analyses, computations, and the like, shall be submitted in sufficient detail to allow a thorough technical review by the city.

(2) Fill shall be used only to the extent to which it does not adversely affect the capacity of channels or floodways of any tributary to the main stream, drainage ditch, or any other drainage facility or system.

(3) Fill shall extend beyond a structure for a sufficient distance to provide acceptable access. For residential structures, fill shall extend laterally 15 feet beyond the building line from all points. For nonresidential structures, fill shall be placed to provide access acceptable for intended use. At grade access, with fill extending laterally 15 feet beyond the building line shall be provided to a minimum of 25% of the perimeter of a nonresidential structure.

(4) Fill shall consist of soil or rock material only. Sanitary landfills shall not be permitted.

(5) Fill material shall be compacted to provide the necessary stability and resistance to erosion, scouring or settling.

(6) Fill slopes shall be no steeper than one vertical on two horizontal, unless substantiating data justifying steeper slopes are submitted to and approved by the Floodplain Administrator.

(7) Fill shall be protected against erosion by rip-rap, vegetation cover, or bulk heading.

(8) The applicant must submit any maps, computations or other material required by the Federal Emergency Management Agency (FEMA) to revise the Flood Insurance Study and/or Flood Insurance Rate Maps, when notified by the Floodplain Administrator, and must pay any fees or other costs assessed by FEMA for this purpose.

(F) *Placement of buildings.*

(1) All buildings and structures shall be constructed and placed on the lot so as to offer the minimum obstruction to the flow of water and shall be designed to have a minimum obstruction effect upon the flow and height of floodwater.

(a) Whenever possible, structures shall be constructed with the longitudinal axis parallel to the direction of flood flow; and

(b) So far as practicable, structures shall be placed approximately on the same flood-flow lines as those adjoining structures.

(G) *Anchoring.*

(1) All buildings and structures shall be firmly anchored in accordance with accepted engineering practices to prevent flotation, collapse, and lateral movement, thus reducing the threat to life and property and decreasing the possibility of the blockage of bridge openings and other restricted sections of the watercourse.

(2) All air ducts, large pipes, and storage tanks located at or below the base flood elevation shall be firmly anchored to resist flotation.

(3) All manufactured homes shall be anchored in compliance with the requirements of 42 CSR Series 19, Sections 10.1, 10.2, and 10b as authorized by W.V. Code § 21-9-4. This anchoring shall be adequate to resist flotation, collapse, or lateral movement. Methods of anchoring may include but are not limited to the over-the-top and frame ties, attached to foundation elements, such as the following:

(a) Over-the-top ties shall be provided at each of the four corners of the manufactured home, with two additional ties per side for manufactured homes less than 50 feet long.

(b) Frame ties shall be provided at each corner of the home with five additional ties per side at intermediate points, with manufactured homes less than 50 feet long requiring four additional ties per side.

(c) All components of the anchoring system shall be capable of carrying a force of 4,800 pounds.

(d) Any additions to a manufactured home shall be similarly anchored.

This requirement is in addition to applicable state and local anchoring requirements for resisting wind forces.

(H) *Storage.*

(1) No materials that are buoyant, flammable, explosive, or in times of flooding could be injurious to human, animal or plant life, shall be stored below base flood elevation.

(2) Storage of other material or equipment may be allowed if not subject to major damage by floods and firmly anchored to prevent flotation or readily removable from the area within the time available after flood warning.

(I) *Utility and facility requirements.*

(1) All new or replacement water systems whether public or private, shall be designed to

minimize or eliminate infiltration of floodwaters into the systems.

(2) All new or replacement sanitary disposal systems, whether public or private, shall be designed to minimize or eliminate infiltration of floodwaters into the systems and discharges from the systems into floodwaters.

(3) All other new or replacement public and/or private utilities and facilities shall be located and constructed to minimize or eliminate flood damage.

(4) Onsite waste disposal systems shall be located to avoid impairment to them or contamination from them during flooding.

(J) *Drainage.* Adequate drainage shall be provided to reduce exposure to flood hazard.

(K) *Backflow preventers.* Back flow prevention valves should be used for all enclosed structures with sewage or drainage facilities located in the floodplain.  
(Ord. 2-91, passed 2-5-1991; Am. Ord. passed 11-4-2003)

## ***ADMINISTRATION***

### **§ 151.090 DESIGNATION OF FLOODPLAIN ADMINISTRATOR.**

The Mayor is hereby appointed as Floodplain Administrator to administer and implement this local law by granting or denying floodplain development permits in accordance with its provisions.  
(Ord. 2-91, passed 2-5-1991; Am. Ord. passed 11-4-2003)

### **§ 151.091 BUILDING PERMITS AND SITE PLAN APPROVALS REQUIRE.**

It shall be unlawful for any person, partnership, business, or corporation to undertake or cause to be

undertaken, any development or the new construction, substantial improvement, the placement or relocation of any structure (including manufactured homes) within the city unless a permit application has been completed and a permit has been obtained from the Floodplain Administrator. In addition, where land that is either partially or fully in the regulatory floodplain is to be subdivided, utilized for a manufactured home park or subdivision or otherwise developed, a site plan must be submitted to, and approved by, the Floodplain Administrator prior to any development.

(Ord. 2-91, passed 2-5-1991; Am. Ord. passed 11-4-2003)

#### **§ 151.092 APPROVAL OF PERMITS AND PLANS.**

(A) All permits and plans shall be approved only after it has been determined that the proposed work to be undertaken will be in conformance with the requirements of the state and all other applicable codes and ordinances.

(B) The Floodplain Administrator shall require copies of all necessary permits from those governmental agencies from which Federal or State Law requires approval.

(C) A record of all information supplied to the Floodplain Administrator shall be kept on file by the city.  
(Ord. 2-91, passed 2-5-1991; Am. Ord. passed 11-4-2003)

#### **§ 151.093 APPLICATION PROCEDURES.**

Application for a building permit and/or site plan approvals shall be made, in writing, on the forms supplied to the Floodplain Administrator, and shall include all information stipulated under §§ 151.050 *et seq.*  
(Ord. 2-91, passed 2-5-1991; Am. Ord. passed 11-4-2003)

#### **§ 151.094 CHANGES.**

After the issuance of a building permit or site plan approval by the Floodplain Administrator, no changes of any kind shall be made to the application, permit, or any of the plans, specification or other documents submitted with the application without the written consent or approval of the Floodplain Administrator.  
(Ord. 2-91, passed 2-5-1991; Am. Ord. passed 11-4-2003)

#### **§ 151.095 PLACARDS.**

In addition to the building permit, the Floodplain Administrator shall issue a placard, which shall be prominently displayed on the premises during the time construction is in progress. This placard shall show the number of the building permit, the date of its issuance and be signed by the Floodplain Administrator.  
(Ord. 2-91, passed 2-5-1991; Am. Ord. passed 11-4-2003)

#### **§ 151.096 START OF CONSTRUCTION.**

Work on the proposed construction shall begin within six months after the date of issuance of the building permit or the permit shall expire unless a time extension is granted, in writing, by the Floodplain Administrator.  
(Ord. 2-91, passed 2-5-1991; Am. Ord. passed 11-4-2003)

#### **§ 151.097 STOP WORK ORDERS, INSPECTIONS AND REVOCATIONS.**

##### *(A) Stop-work orders.*

(1) The Floodplain Administrator shall issue, or cause to be issued, a “Stop Work Order Notice” for any development found ongoing without having obtained a development permit. Disregard of a stop work order shall subject the violator to the penalties described in § 151.999.

(2) The Floodplain Administrator shall issue, or cause to be issued, a “Stop Work Order Notice” for any floodplain development found non-compliant with the provisions of this law and/or the conditions of the development permit. Disregard of a stop work order shall subject the violator to the penalties described in § 151.999.

##### *(B) Inspections and revocations.*

(1) During the construction period, the Floodplain Administrator or other authorized official may inspect the premises to determine that the work is progressing in compliance with the information provided on the permit application and with all applicable laws and ordinances. If the Floodplain Administrator discovers that the work does not comply with the permit application or any applicable laws and ordinances or that there has been false statement or misrepresentation by any applicant, the Floodplain Administrator shall issue a “Stop Work Order Notice” revoke the building permit and request the Prosecuting Attorney to file a temporary injunction.

(Ord. 2-91, passed 2-5-1991; Am. Ord. passed 11-4-2003)

#### **§ 151.098 FEES.**

The Common Council may by resolution promulgate a schedule of fees to be charged for permits issued pursuant to this subchapter and for inspections required by terms of such permits.  
(Ord. 2-91, passed 2-5-1991; Am. Ord. passed 11-4-2003; Am. Ord. passed 12-16-2003)

**§ 151.999 PENALTY.**

Any person who fails to comply with any or all of the requirements or provisions of this chapter or direction of the Floodplain Administrator or any other authorized employee of the community shall be guilty of a misdemeanor, and upon conviction, shall pay a fine to the city not less than \$50 or more than \$500 plus cost of prosecution. Any fine not paid may be



enforced by the attachment of a lien on the applicable real estate. In default of such payment such person shall be imprisoned for a period not to exceed ten days. Each day during which any violation of this chapter continues shall constitute a separate offense. In addition to the above penalties, all other actions are hereby reserved including an action in equity for the proper enforcement of this chapter. The imposition of a fine or penalty for any violation of, or non-compliance with, this chapter shall not excuse the violation or non-compliance with the chapter or permit it to continue; and all such persons shall be required to correct or remedy such violations or non-compliance within a reasonable time. Any structure constructed, reconstructed, enlarged, altered or relocated in non-compliance with this chapter may be declared by the city to be a public nuisance and abatable as such.

(Ord. 2-91, passed 2-5-1991; Am. Ord. passed 11-4-2003)



## CHAPTER 152: ZONING CODE

### Section

- 152.01 Oil and gas wells prohibited in all but 2 zoning districts
- 152.02 Permit required to drill for oil or gas, where such wells not prohibited; plans and specifications to accompany permit application
- 152.03 Common Council may grant variations and exceptions as to oil and gas wells
- 152.04 Mailboxes
- 152.05 Regulations for ground satellite stations
- 152.06 Private swimming pools
- 152.07 Comprehensive Zoning Ordinance adopted by reference

#### **Editor's note:**

*The Comprehensive Zoning Ordinance is not set out in this code; but it has been saved from repeal and is on file in the office of the City Clerk and is there available for inspection and use during all regular business hours. The Zoning Ordinance is in 2 parts, Part I being*

*the*

*zoning regulations, and Part II being the regulations for the development of land.*

#### **Statutory reference:**

*Authority of city to inspect private premises, see W.V. Code, § 8-12-15*

*Authority of city to prohibit the location of occupied mobile homes in certain residential areas, see W.V. Code, § 8-12-5(30)*

*Authority of city to regulate the location and placing of signs, billboards and the like, see W.V. Code, § 8-12-5(31)*

*Authority of city to require building permits, see W.V. Code, § 8-12-14*

*State law regulating oil and gas wells, see W.V. Code, § 22-6-1*

*Urban and rural zoning, see W.V. Code, §§ 8-24-39 to 8-24-71*

### **§ 152.01 OIL AND GAS WELLS PROHIBITED IN ALL BUT 2 ZONING DISTRICTS.**

No drilling for oil or gas shall be conducted within the city, with the exception that such drilling may be permitted in those 2 districts of the city defined by the Comprehensive City Zoning Ordinance, Part I, as "Agricultural District (A)" and

"Flood Plain District (F);" provided, that such drilling shall be located not less than 750 feet from any dwelling house or nonabandoned business building and no less than one-half mile from any other such drilling activity.

(1970 Code, § 22-1) (Ord. passed 2-18-1969)

### **§ 152.02 PERMIT REQUIRED TO DRILL FOR OIL OR GAS, WHERE SUCH WELLS NOT PROHIBITED; PLANS AND SPECIFICATIONS TO ACCOMPANY PERMIT APPLICATION.**

Any person who intends to conduct drilling within the limitations of § 152.01 shall first submit plans, specifications and maps, together with a comprehensive liability insurance policy or indemnity bond with good and adequate surety for each proposed drilling site to the Planning Commission for approval and written permit.

(1970 Code, § 22-2) (Ord. passed 2-18-1969)

#### **Statutory reference:**

*State law as to state permit required for drilling, redrilling, deepening and the like of oil and gas wells, see W.V. Code, § 22-6-6*



**§ 152.03 COMMON COUNCIL MAY GRANT VARIATIONS AND EXCEPTIONS AS TO OIL AND GAS WELLS.**

Variations from and exceptions to the restrictions imposed by § 152.01 may be given only by the Common Council at any regular or special meeting, upon application and upon the grounds that such variation or exception is proper, not dangerous to any person or property and that it is within the public interests to grant such exception or variation.

(1970 Code, § 22-3) (Ord. passed 2-18-1969)

**§ 152.04 MAILBOXES.**

United States mailboxes or receptacles may hereafter be located, placed or erected adjacent to the city streets, at curbside and upon city rights-of-way to serve those residences located on Chambers Drive, the northerly extension of Fitzhugh Street to Kaiser Avenue and on such other streets as may be constructed, extended or built in the corporate limits; provided, that all such mailbox or receptacle construction, location, placement, and erection shall conform in all applicable respects to the rules, regulations and specifications promulgated by the City Planning Commission.

(1970 Code, § 22-4) (Ord. passed 9-7-1976)

**§ 152.05 REGULATIONS FOR GROUND SATELLITE STATIONS.**

(A) Within residential districts, as defined by the Planning Commission, the following provisions shall apply to satellite ground stations or other antennas designed to transmit or receive radio or television signals to or from earth satellites.

- (1) Such ground stations or antennas shall be for the personal use of residents and their guests only.
- (2) Such ground stations or antennas shall contain no graphic message or advertising.

(3) Ground-mounted stations or antennas shall be considered accessory structures and shall comply with the following conditions and requirements:

(a) Such stations or antennas not mounted on the roof of a primary or accessory structure shall be located to the rear of the principal building or structure and shall not exceed the above grade height of 15 feet, unless otherwise approved by the City Planning Commission upon proper application and hearing;

(b) Such stations or antennas shall not be located closer than 10 feet to a rear lot line, 8 feet from a side lot line, or 1 foot from any easement;

(c) Such stations or antennas shall be mounted in a concrete base in line with grade and only metal supports of weather-resistant construction shall be utilized, except, however, for portable stations, the mounting of which after inspection and report by the Building Inspector may be approved by the Planning and Zoning Commission;

(d) Wiring between such station and any other structure shall be placed underground.

(4) Roof mounted stations or antennas shall be considered accessory structures and shall comply with the following conditions and requirements:

(a) Such stations or antennas shall be mounted directly on the roof of a primary or accessory structure and shall not be mounted on an appurtenance such as chimneys, towers or spires;

(b) Such stations or antennas mounted on the roof of a primary or accessory structure shall not exceed a height of greater than 3 feet above the roof on which it is mounted. The height shall be measured vertically from the point at which such station or antenna is mounted on the roof;

(c) The diameter of any dish antenna mounted upon the roof of a primary or accessory structure shall not exceed 3 feet.

(B) Within nonresidential districts, the following provisions shall apply to satellite ground stations or other antennas designed to transmit or receive radio or television signals to or from earth satellites.

(1) Such ground stations or antennas shall contain no graphic message or advertising.

(2) Ground mounted stations or antennas shall be considered accessory structures and shall comply with the following conditions and requirements:

(a) Such stations or antennas not mounted on the roof of a primary or accessory structure shall be located to the rear of the principal building or structure on the property where the station is located and shall not exceed an above grade height of 15 feet;

(b) Such stations or antennas shall be counted in a concrete base in line with grade and only metal supports of a weather-resistant construction shall be utilized, except, however, for portable stations, the mounting of which after inspection and report by the Building Inspector may be approved by the Planning and Zoning Commission;

(c) Wiring between such station and any other structure shall be placed underground.

(3) Roof mounted stations or antennas shall be considered accessory structures and shall comply with the following conditions and requirements:

(a) Such stations and antennas shall be mounted directly on the roof of a primary or accessory structure and shall not be mounted on appurtenances such as chimneys, towers or spires;

(b) Such stations or antennas mounted on the roof of a primary or accessory structure shall not exceed a height of greater than 8 feet above the roof on which it is mounted. The height shall be measured vertically from the point at which such station or antenna is mounted on the roof.

(C) Each and every ground satellite station proposed to be erected within the corporation limits of the city shall require application of the owner or his agent to the City Planning Commission accompanied by a diagram, drawing or blueprint of the proposed construction details and a land use permit fee in the sum prescribed by the Commission; no such ground satellite station shall be erected until the approval of the Commission has been first obtained.

(D) The Planning and Zoning Commission, upon proper application, may waive strict compliance with the provisions hereof by granting a variance founded upon special circumstances or considerations, subject to the right of any interested party to appeal to the Common Council as provided under the zoning ordinance. (Ord. passed 1-21-1986)

#### **§ 152.06 PRIVATE SWIMMING POOLS.**

A private swimming pool, not including farm ponds, shall be any pool, lake or open tank not located within a completely enclosed building and containing or normally capable of containing water to a depth at any point greater than 1 1/2 feet. No such swimming pool, exclusive of portable swimming pools with a diameter less than 12 feet or with an area of less than 100 square feet, shall be allowed in any district, except as an accessory use and unless it complies with the following conditions and requirements:

(A) The pool is intended and is to be used solely for the enjoyment of the occupants for the principal use of the property on which it is located;

(B) It may not be located, including any walks or paved areas or accessory structure adjacent thereto, closer than 10 feet to any property line of the property on which located;

(C) The swimming pool, or the entire property on which it is located, shall be so walled or fenced so as to prevent uncontrolled access by uninvited persons from the street or from adjacent properties. The fence or wall shall not be less than 5 feet in height and



maintained in good condition, with a gate securely latched. Every such pool shall be installed and constructed in full compliance with adherence to the applicable provisions and requirements set forth in the National Electrical Code, as amended;

(D) All electric lines serving the swimming pool shall be located 25 feet from the primary drop line and 22.5 feet from the secondary lines;

(E) Before any swimming pool is filled with water, the same shall be first inspected by the City Building Inspector to determine if the pool complies with all applicable ordinances, in which case the same shall be then approved for use.

(Ord. passed 6-4-1985; Am. Ord. passed 10-17-2000)

#### **§ 152.07 COMPREHENSIVE ZONING ORDINANCE ADOPTED BY REFERENCE.**

The Comprehensive Zoning Ordinance is hereby adopted by reference and made a part of this code. Copies are available for inspection in the office of the City Clerk during regular office hours.

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#### **TABLE OF SPECIAL ORDINANCES**

Table

##### **I. ANNEXATIONS**

##### **II. VACATIONS**

##### **III. SALES, TRANSFERS, AND CONVEYANCES**



**TABLE I: ANNEXATIONS**

<i><b>Ord. No.</b></i>	<i><b>Date Passed</b></i>	<i><b>Description</b></i>
—	11-19-2002	Annexing 543 acres, more or less, of land adjacent to the present corporate limits of the city situated in Ravenswood District, Jackson County, West Virginia.



**TABLE II: VACATIONS**

<i><b>Ord. No.</b></i>	<i><b>Date Passed</b></i>	<i><b>Description</b></i>
—	12-17-1996	Vacating the westerly unpaved extension of Ashton Street, measuring approximately 150 feet from the paved portion of the street.
—	11-6-2002	Closing and vacating Water Street from Walnut Street to Sand Street and Sand Street from Water Street to the alley between Walnut Street and Railroad Street.



**TABLE III: SALES, TRANSFERS, AND CONVEYANCES**

<i><b>Ord. No.</b></i>	<i><b>Date Passed</b></i>	<i><b>Description</b></i>
—	4-3-1979	Authorizing the city to purchase 0.39 acres of real property situated in Ravenswood Independent District from Samuel T. and Lillian Wilburn for public purposes.
—	9-18-1984	Authorizing the public sale of certain owned real and personal properties declared surplus and unnecessary for further city use.
—	12-16-1997	Authorizing the transfer of a certain parcel of real estate lying between Fitzhugh Street and Hillcrest Drive.
—	12-17-2002	Conveying 1 acre, more or less, near Henry J. Kaiser Elementary School, to the Jackson County Board of Education.
—	8-19-2003	Approving the acquisition of .213 acres, more or less, from the First United Presbyterian Church of Ravenswood.





**PARALLEL REFERENCES**

References to West Virginia Code  
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