

TITLE 12C
TRAFFIC REGULATIONS

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TITLE 12C
TRAFFIC REGULATIONS

CHAPTER 1
WORDS AND PHRASES DEFINED

§ 12C-101. Definitions generally.

The following words and phrases when used in this title shall, for the purpose of this title, have the meanings respectively ascribed to them in this chapter.

(Formerly § 12-101; Ref. W.Va. Code § 17C-1-1)

§ 12C-102. Vehicle.

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

(Formerly § 12-101(a); Ref. W.Va. Code § 17C-1-2)

§ 12C-103. Motor vehicle.

“Motor vehicle” means every vehicle which is self-propelled and every vehicle which is propelled by electric power obtained from overhead trolley wires, but not operated upon rails, except motorized wheelchairs.

(Formerly § 12-101(b); Ref. W.Va. Code § 17C-1-3)

§ 12C-104. Motorcycle.

“Motorcycle” means every motor vehicle having a seat or saddle for the use of the rider and designed to travel on not more than three wheels in contact with the ground, but excluding a tractor.

(Formerly § 12-101(c); Ref. W.Va. Code § 17C-1-4)

§ 12C-105. Motor-driven cycle.

“Motor-driven cycle” means every motorcycle having a piston displacement of more than fifty cubic centimeters but not more than one hundred fifty cubic centimeters, or with not more than five brake horsepower.

(Formerly § 12-101(d); Ref. W.Va. Code § 17C-1-5)

§ 12C-105(a). Moped.

“Moped” means every motorcycle or motor-driven cycle unless otherwise specified in this title, which is equipped with two or three wheels, foot pedals to permit muscular propulsion and an independent power source providing a maximum of two brake horsepower. If a combustion engine is used, the maximum piston or rotor displacement shall be fifty cubic centimeters regardless of the number of chambers in such power source. The power source shall

be capable of propelling the vehicle, unassisted, at a speed not to exceed thirty miles per hour on a level road surface and shall be equipped with a power drive system that functions directly or automatically only, not requiring clutching or shifting by the operator after the drive system is engaged.

(Formerly § 12-101(e); Ref. W.Va. Code § 17C-1-5a)

§ 12C-106. Authorized emergency vehicle.

“Authorized emergency vehicle” means vehicles of a fire department, duly chartered rescue squad, police department, ambulance service, state, county or municipal agency and such privately owned ambulances, tow trucks, wreckers, flag car services, vehicles providing road service to disabled vehicles, service vehicles of a public service corporation, postal service vehicles, snow removal equipment, Class A vehicles of firefighters, Class A vehicles of members of ambulance services, and Class A vehicles of members of duly chartered rescue squads, and all other emergency vehicles as are designated by the agency responsible for the operation and control of these persons or organizations. Class A vehicles are as defined by § 17A-10-1 of the West Virginia Code. Agency authorization and emergency equipment are defined in § 12C-1526 of this title. Agencies responsible for issuing authorization for emergency vehicle permits may promulgate such regulations that are necessary for the issuance of permits for emergency vehicles.

(Ref. W.Va. Code § 17C-1-6)

§ 12C-107. School bus.

“School bus” means every motor vehicle owned by a public or governmental agency and operated for the transportation of children to or from school or privately owned and operated for compensation for the transportation of children to or from school.

(Formerly § 12-101(g); Ref. W.Va. Code § 17C-1-7)

§ 12C-108. Bicycle.

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

(Formerly § 12-101(f); Ref. W.Va. Code § 17C-1-8)

§ 12C-109. Truck tractor.

“Truck tractor” means every motor vehicle designed and used primarily for drawing other vehicles and not so constructed as to carry a load other than a part of the weight of the vehicle and load so drawn.

(Formerly § 12-101(i); Ref. W.Va. Code § 17C-1-9)

§ 12C-110. Farm tractor.

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

(Formerly § 12-101(j); Ref. W.Va. Code § 17C-1-10)

§ 12C-111. Road tractor.

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

(Formerly § 12-101(k); Ref. W.Va. Code § 17C-1-11)

§ 12C-112. Truck.

“Truck” means every motor vehicle designed, used, or maintained primarily for the transportation of property.

(Formerly § 12-101(l); Ref. W.Va. Code § 17C-1-12)

§ 12C-113. Bus.

“Bus” means every motor vehicle designed for carrying more than seven passengers and used for the transportation of persons; and every motor vehicle, other than a taxicab, designed and used for the transportation of persons for compensation.

(Formerly § 12-101(h); Ref. W.Va. Code § 17C-1-13)

§ 12C-114. Trackless trolley coach.

“Trackless trolley coach” means every motor vehicle which is propelled by electric power obtained from overhead trolley wires but not operated upon rails.

(Ref. W.Va. Code § 17C-1-14)

§ 12C-115. Trailer.

“Trailer” means every vehicle with or without motive power, other than a pole trailer, designed for carrying persons or property and for being drawn by a motor vehicle and so constructed that no part of its weight rests upon the towing vehicle.

(Formerly § 12-101(m); Ref. W.Va. Code § 17C-1-15)

§ 12C-116. Semitrailer.

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

(Formerly § 12-101(n); Ref. W.Va. Code § 17C-1-16)

§ 12C-117. Pole trailer.

“Pole trailer” means every vehicle without motive power designed to be drawn by another vehicle and attached to the towing vehicle by means of a reach, or pole, or by being boomed or otherwise secured to the towing vehicle, and ordinarily used for transporting long or

irregularly shaped loads such as poles, pipes, trusses, or structural members capable, generally, of sustaining themselves as beams between the supporting connections.

(Formerly § 12-101(o); Ref. W.Va. Code § 17C-1-17)

§ 12C-118. Pneumatic tire.

“Pneumatic tire” means every tire in which compressed air is designed to support the load.

(Formerly § 12-101(v); Ref. W.Va. Code § 17C-1-18)

§ 12C-119. Solid tire.

“Solid tire” means every tire of rubber or other resilient material which does not depend upon compressed air for the support of the load.

(Formerly § 12-101(w); Ref. W.Va. Code § 17C-1-19)

§ 12C-120. Metal tire.

“Metal tire” means every tire the surface of which in contact with the highway is wholly or partly of metal or other hard nonresilient material.

(Formerly § 12-101(x); Ref. W.Va. Code § 17C-1-20)

§ 12C-121. Railroad.

“Railroad” means a carrier of persons or property upon cars, other than streetcars, operated upon stationary rails.

(Ref. W.Va. Code § 17C-1-21)

§ 12C-122. Railroad train.

“Railroad train” means a steam engine, electric or other motor, with or without cars coupled thereto, operated upon rails, except streetcars.

(Ref. W.Va. Code § 17C-1-22)

§ 12C-123. Streetcar.

“Streetcar” means a car other than a railroad train for transporting persons or property and operated upon rails principally within a municipality.

(Ref. W.Va. Code § 17C-1-23)

§ 12C-124. Explosives.

“Explosives” means any chemical compound or mechanical mixture that is commonly used or intended for the purpose of producing an explosive and which contains any oxidizing and combustive units or other ingredients in such proportions, quantities, or packing that an ignition by fire, by friction, by concussion, by percussion, or by detonator of any part of the compound or mixture may cause such a sudden generation of highly heated gases that the resultant gaseous

pressures are capable of producing destructive effects on contiguous objects or of destroying life or limb.

(Formerly § 12-101(www); Ref. W.Va. Code § 17C-1-24)

§ 12C-125. Flammable liquid.

“Flammable liquid” means any liquid which has a flash point of seventy degrees Fahrenheit, or less, as determined by a tagliabue or equivalent closed-cup test device.

(Ref. W.Va. Code § 17C-1-25)

§ 12C-126. Gross Weight.

“Gross weight” means the weight of a vehicle without load plus the weight of any load thereon.

(Formerly § 12-101(xxx); Ref. W.Va. Code § 17C-1-26)

§ 12C-127. Commissioner.

“Commissioner” means the commissioner of motor vehicles of this State.

(Formerly § 12-101(y); Ref. W.Va. Code § 17C-1-27)

§ 12C-128. Division.

“Division” means the division of motor vehicles of this state acting directly or through its duly authorized officers and agents. Wherever in this title reference is made to “the department of motor vehicles” or “the department”, unless a different meaning is clearly required, the reference shall be deemed to be a reference to the division of motor vehicles.

(Formerly § 12-101(z); Ref. W.Va. Code § 17C-1-28)

§ 12C-129. Person.

“Person” means every natural person, firm, copartnership, association, or corporation.

(Formerly § 12-101(ee); Ref. W.Va. Code § 17C-1-29)

§ 12C-130. Pedestrian.

“Pedestrian” means any person afoot or any person using a wheelchair.

(Formerly § 12-101(jj); Ref. W.Va. Code § 17C-1-30)

§ 12C-131. Driver.

“Driver” means every person who drives or is in actual physical control of a vehicle.

(Formerly § 12-101(gg); Ref. W.Va. Code § 17C-1-31)

§ 12C-132. Owner.

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

(Formerly § 12-101(ff); Ref. W.Va. Code § 17C-1-32)

§ 12C-133. Police officer.

“Police officer” means every officer authorized to direct or regulate traffic or to make arrests for violations of traffic regulations.

(Formerly § 12-101(ll); Ref. W.Va. Code § 17C-1-33)

§ 12C-134. Local authorities.

“Local authorities” means every county, municipal, and other local board or body having authority to enact laws relating to traffic under the Constitution and laws of this State.

(Formerly § 12-101(mm); Ref. W.Va. Code § 17C-1-34)

§ 12C-135. Street or highway.

“Street” or “highway” means the entire width between the boundary lines of every way publicly maintained when any part thereof is open to the use of the public for purposes of vehicular travel.

(Formerly § 12-101(aaa); Ref. W.Va. Code § 17C-1-35)

§ 12C-136. Private road or driveway; private property.

(a) “Private road” or “driveway” means every way or place in private ownership and used for vehicular travel by the owner and those having express or implied permission from the owner, but not by other persons.

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

((Formerly § 12-101(bbb) & (ccc); (Ref. W.Va. Code § 17C-1-36)

§ 12C-137. Roadway.

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

(Formerly § 12-101(ddd); Ref. W.Va. Code § 17C-1-37)

§ 12C-138. Sidewalk.

“Sidewalk” means that portion of a street between the curb lines, or the lateral lines of a roadway, and the adjacent property lines, intended for the use of pedestrians.

(Formerly § 12-101(eee); Ref. W.Va. Code § 17C-1-38)

§ 12C-139. Laned roadway.

“Laned roadway” means a roadway which is divided into two or more clearly marked lanes for vehicular traffic.

(Formerly § 12-101(fff); Ref. W.Va. Code § 17C-1-39)

§ 12C-140. Through highway.

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

(Formerly § 12-101(ggg); Ref. W.Va. Code § 17C-1-40)

§ 12C-141. Controlled-access highway.

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

(Formerly § 12-101(hhh); Ref. W.Va. Code § 17C-1-41)

§ 12C-142. Intersection.

“Intersection” includes: (a) The area embraced within the prolongation or connection of the lateral curb lines, or, if none, then the lateral boundary lines of the roadways of two highways which join one another at, or approximately at, right angles, or the area within which vehicles traveling upon different highways joining at any other angle may come in conflict; and

(b) Where a highway includes two roadways thirty feet or more apart, then every crossing of each roadway of such divided highway by an intersecting highway shall be regarded as a separate intersection. In the event such intersecting highway also includes two roadways thirty feet or more apart, then every crossing of two roadways of such highways shall be regarded as a separate intersection.

(Formerly § 12-101(iii); Ref. W.Va. Code § 17C-1-42)

§ 12C-143. Crosswalk.

“Crosswalk” includes: (a) That part of a roadway at an intersection included within the connections of the lateral lines of the sidewalks on opposite sides of the highway measured from the curbs or, in the absence of curbs, from the edges of the traversable roadway; and

(b) Any portion of a roadway at an intersection or elsewhere distinctly indicated for pedestrian crossing by lines or other markings on the surface.

(Formerly § 12-101(jjj); Ref. W.Va. Code § 17C-1-43)

§ 12C-144. Safety zone.

“Safety zone” means the area or space officially set apart within a roadway for the exclusive use of pedestrians and which is protected or is so marked or indicated by adequate signs as to be plainly visible at all times while set apart as a safety zone.

(Formerly § 12-101(ttt); Ref. W.Va. Code § 17C-1-44)

§ 12C-145. Business district.

“Business district” means the territory contiguous to and including a highway when within any six hundred feet along such highway there are buildings in use for business or industrial purposes, including but not limited to hotels, banks, or office buildings, railroad stations, and public buildings which occupy at least three hundred feet of frontage on one side or three hundred feet collectively on both sides of the highway.

(Formerly § 12-101(uuu); Ref. W.Va. Code § 17C-1-45)

§ 12C-146. Residence district.

“Residence district” means the territory contiguous to and including a highway not comprising a business district when the property on such highway for a distance of three hundred feet or more is in the main improved with residences or residences and buildings in use for business.

(Formerly § 12-101(vvv); Ref. W.Va. Code § 17C-1-46)

§ 12C-147. Traffic-control devices.

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

(Formerly § 12-101(kkk); Ref. W.Va. Code § 17C-1-47)

§ 12C-148. Traffic-control signal.

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

(Formerly § 12-101(lll); Ref. W.Va. Code § 17C-1-48)

§ 12C-149. Railroad sign or signal.

“Railroad sign” or “signal” means any sign, signal, or device erected by authority of a public body or official or by a railroad and intended to give notice of the presence of railroad tracks or the approach of a railroad train.

(Formerly § 12-101(mmm); Ref. W.Va. Code § 17C-1-49)

§ 12C-150. Traffic.

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

(Formerly § 12-101(nnn); Ref. W.Va. Code § 17C-1-50)

§ 12C-151. Right-of-way.

“Right-of-way” means the privilege of the immediate use of the highway.

(Formerly § 12-101(ooo); Ref. W.Va. Code § 17C-1-51)

§ 12C-152. Stop.

“Stop,” when required, means complete cessation from movement.

(Formerly § 12-101(ppp); Ref. W.Va. Code § 17C-1-52)

§ 12C-153. Stop, stopping, or standing.

“Stop,” “stopping,” or “standing,” when prohibited, means any stopping or standing of a vehicle, whether occupied or not, except when necessary to avoid conflict with other traffic or in compliance with the directions of a police officer or traffic-control sign or signal.

(Formerly § 12-101(qqq); Ref. W.Va. Code § 17C-1-53)

§ 12C-154. Park.

“Park,” when prohibited, means the standing of a vehicle, whether occupied or not, otherwise than temporarily for the purpose of and while actually engaged in loading or unloading.

(Formerly § 12-101(rrr); Ref. W.Va. Code § 17C-1-54)

§ 12C-155. School grounds.

“School grounds” includes the land on which a school is built together with such other land used by students for play, recreation or athletic events while attending school.

(Formerly § 12-101(sss); Ref. W.Va. Code § 17C-1-55)

§ 12C-156. Axle group.

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

(Formerly § 12-101(yyy); Ref. W.Va. Code § 17C-1-56)

§ 12C-157. Tandem axle.

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

(Formerly § 12-101(zzz); Ref. W.Va. Code § 17C-1-57)

§ 12C-158. Tandem axle weight.

“Tandem axle weight” means the total weight transmitted to the road by two or more consecutive axles whose centers may be included between parallel transverse planes spaced more than forty inches and not more than ninety-six inches apart, extending the full width of the vehicle.

(Formerly § 12-101(aaaa); Ref. W.Va. Code § 17C-1-58)

§ 12C-159. Connecting mechanism.

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

(Formerly § 12-101(bbbb); Ref. W.Va. Code § 17C-1-59)

§ 12C-160. Parking area.

“Parking area” means lots, areas, or other accommodations for the parking of vehicles off the street or highway and open to public use with or without charge.

(Ref. W.Va. Code § 17C-1-60)

§ 12C-161. Institution of higher education.

The term “institution of higher education” shall mean “state colleges,” “state college,” “state universities” and “universities,” “state university,” and “university,” and “community college” as defined in § 18B-1-2(h) of the West Virginia Code and any other institution as defined by sections 401 (f), (g), (h) of the Federal Higher Education Facilities Act of 1963, as amended.

(Ref. W.Va. Code § 17C-1-61)

§ 12C-162. Residential street.

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

(Ref. W.Va. Code § 17C-1-62)

§ 12C-163. Digger/ derrick line truck.

“Digger/derrick line truck” means a truck which is specifically designed and used for transporting and setting utility poles.

(Ref. W.Va. Code § 17C-1-63)

§ 12C-164. Passenger van.

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

(Ref. W.Va. Code § 17C-1-64)

§ 12C-165. Wheelchair.

“Wheelchair” means a motorized or nonmotorized wheeled device designed for, and used by, a person with disabilities that is incapable of a speed in excess of eight miles per hour.

(Ref. W.Va. Code § 17C-1-65)

§ 12C-166. Electric personal assistive mobility device.

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

(Ref. W.Va. Code § 17C-1-66)

CHAPTER 2
OBEDIENCE TO AND EFFECT OF TRAFFIC LAWS

§ 12C-201. Provisions of title refer to vehicles upon streets and highways; exceptions.

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

(1) Where a different place is specifically referred to in a given section.

(2) The provisions of chapters three, four, five, five-A, six, seven, eight, nine, ten, eleven, twelve, thirteen, fourteen, fifteen, sixteen, eighteen and nineteen [§§ 12C-301 to 12C-1609, 12C-1801 to 12C-1910] shall apply upon streets and highways as defined in § 12C-135 of this title and upon any subdivision street when the use of the subdivision street is generally used by the public. (Ref. W.Va. Code § 17C-2-1)

§ 12C-202. Required obedience to traffic laws.

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

(Formerly § 12-104; Ref. W.Va. Code § 17C-2-2)

§ 12C-203. Enforcement of title; designation and power of special officers; bond of special officers; failure to obey police officer or special officers.

(a) It is the duty of the police of the Corporation of Shepherdstown and its members to enforce the provisions of this title and other laws of the Corporation of Shepherdstown governing the operation of vehicles upon the streets and highways of the town as defined in § 12C-135 of this title, or in other designated places specifically referred to in a given section in this title; and it is the duty of the police of the Corporation of Shepherdstown to render to the West Virginia state police such assistance in the performance of said duties as the superintendent of the West Virginia state police may require of them.

(b) The Mayor of Shepherdstown is authorized to designate employees of the municipality as special officers to enforce the provisions of this title only when special officers are directing traffic upon bridges and the approaches to bridges which are a part of the road system within the town when any bridge needs special traffic direction and the Chief of Police of the Corporation of Shepherdstown has informed the Mayor that he or she is unable to furnish personnel for traffic direction. The Mayor may also designate certain employees of the Corporation of Shepherdstown serving as members of the official weighing crews as special officers to enforce the provisions of §§ 12C-1701 et seq. of this title. Notwithstanding any provision of this code to the contrary, designated special officers serving as members of official weighing crews may carry handguns in the course of their official duties after meeting specialized qualifications established by the governor's committee on crime, delinquency and correction, which qualifications shall include the successful completion of handgun training, including a minimum of four hours' training in handgun safety, paid for by the Corporation of Shepherdstown and comparable to the handgun training provided to law-enforcement officers by the West Virginia state police; Provided, That nothing in this section shall be construed to

include designated special officers authorized by the provisions of this section as law- enforcement officers as such are defined in § 30-29-1 of the West Virginia Code. The Corporation of Shepherdstown shall provide a blanket bond in the amount of ten thousand dollars for all employees designated as special officers, as above provided.

(c) No person shall willfully fail or refuse to comply with a lawful order or direction of any police officer or designated special officer invested by law with authority to direct, control, or regulate traffic.

(d) No person shall willfully fail or refuse to comply with a lawful order or direction of any designated special officer pursuant to the provisions of subsection (b) of this section.

(Formerly § 12-105; Ref. W.Va. Code § 17C-2-3)

§ 12C-204. Obedience to title of public officers and employees; title inapplicable to persons engaged in highway surface work.

(a) The provisions of this title applicable to the drivers of vehicles upon the highways 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 highway but shall apply to such persons and vehicles when traveling to or from such work.

(Formerly § 12-206; Ref. W.Va. Code § 17C-2-4)

§ 12C-205. 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 or turning in specified directions.

(c) The exemptions herein granted to an authorized emergency vehicle shall apply only when the driver of any said vehicle while in motion sounds audible signal by bell, siren, or exhaust whistle as may be reasonably necessary, and when the vehicle is equipped with at least one lighted flashing lamp as authorized by § 12C-1526 of the Code of the Town of Shepherdstown which is visible under normal atmospheric conditions from a distance of five hundred feet to the front of such vehicle, except that an authorized emergency vehicle operated

as a police vehicle need not be equipped with or display a warning light visible from in front of the vehicle.

(d) The foregoing provisions shall not relieve the driver of an authorized emergency vehicle from the duty to drive with due regard for the safety of all persons, nor shall such provisions protect the driver from the consequences of his reckless disregard for the safety of others.

(Formerly § 12-107; Ref. W.Va. Code § 17C-2-5)

§ 12C-206. Traffic Laws apply to persons riding animals or driving animal-drawn vehicles.

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

(Formerly § 12-103; Ref. W.Va. Code § 17C-2-6)

§ 12C-207. Uniformity of provisions of Chapter 17C of the West Virginia Code throughout State.

The provisions of Chapter 17C of the West Virginia Code as amended shall be applicable and uniform throughout this State and in all political subdivisions and municipalities therein and no local authority shall enact or enforce any ordinance, rule, or regulation in conflict with the provisions of Chapter 17C of the West Virginia Code unless expressly authorized therein. The Corporation of Shepherdstown may, however, adopt additional traffic regulations which are not in conflict with the provisions of Chapter 17C of the West Virginia Code.

(Formerly § 12-102; Ref. W.Va. Code § 17C-2-7)

§ 12C-208. Powers with respect to streets and highways.

(a) The provisions of Chapter 17C of the West Virginia Code as amended shall not be deemed to prevent the Corporation of Shepherdstown with respect to streets and highways under its jurisdiction and within the reasonable exercise of its police power from:

1. Regulating the standing or parking of vehicles;
 2. Regulating traffic by means of police officers or traffic-control devices;
 3. Regulating or prohibiting processions or assemblages on the highways;
 4. Designating particular highways or streets as one-way highways or streets requiring that all vehicles thereon be moved in one specific direction;
- and
5. Regulating the speed of vehicles in public parks;
 6. Designating any highway as a through highway and requiring that all vehicles stop before entering or crossing the same or designating any intersection as a stop intersection and requiring all vehicles to stop at one or more entrances at such intersection;
 7. Restricting the use of highways as authorized in § 12C-1712 of this title;
 8. Regulating the operation of bicycles and requiring the registration and licensing of same, including the requirement of a registration fee;

- vehicles
Virginia
9. Regulating or prohibiting the turning of vehicles or specified types of at intersections;
 10. Altering the speed limits as authorized in Chapter 17C of the West Code as amended;
 11. Adopting such other traffic regulations as are specifically authorized by Chapter 17C of the West Virginia Code as amended.

(b) The Corporation of Shepherdstown shall not permit any parking on any state highway, or erect or maintain any stop sign or traffic-control device at any location so as to require the traffic on any state highway to stop before entering or crossing any intersecting highway unless approval in writing has first been obtained from the West Virginia commissioner of highways. Any such approval may be withdrawn by a notice in writing from the state road commissioner.

(c) No ordinance or regulation enacted under (4), (5), (6), (7), or (10) of § 12C-208(a) of this chapter shall be effective until signs giving notice of such local traffic regulations are posted upon or at the entrance to the highway or part thereof affected as may be most appropriate.

(Formerly § 12-102(b) & (c); Ref. W.Va. Code § 17C-2-8)

§ 12C-209. Title 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 the owner and not as 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.

(Ref. W.Va. Code § 17C-2-9)

CHAPTER 3
TRAFFIC SIGNS, SIGNALS AND MARKINGS.

§ 12C-301. Reserved.

§ 12C-302. Placing and maintaining traffic-control devices and signs on state highways.

The Corporation of Shepherdstown shall not place or maintain any traffic-control device upon any highway under the jurisdiction of the West Virginia commissioner of highways except by the latter's permission.

(Ref. W.Va. Code § 17C-3-2)

§ 12C-303. Local traffic-control devices.

The Chief of Police, with the approval of the Mayor and Town Council of Shepherdstown, shall place and maintain such traffic-control devices upon highways under his jurisdiction as he may deem necessary to indicate and to carry out the provisions of this title or local traffic ordinances or to regulate, warn, or guide traffic. All such traffic-control devices hereafter erected shall conform to the state manual and specifications.

(Formerly § 12-354; Ref. W.Va. Code § 17C-3-3)

§ 12C-304. Obedience to traffic-control devices; official signs to be in proper position, etc.; penalty.

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

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

(c) 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.

(Formerly § 12-355; Ref. W.Va. Code § 17C-3-4)

§ 12C-304a. Obedience to traffic-control instructions at site of street or highway construction or maintenance; penalty.

(a) The driver of any vehicle shall obey the traffic-control instructions of any law-enforcement officer or persons authorized by the Chief of Police, the Town Council, or the Mayor to operate traffic-control devices, act as flagmen, or operate authorized vehicles engaged in work at or near the site of street or highway construction maintenance work, for the purpose of regulating, warning or guiding traffic, subject to the exceptions granted the driver of an authorized emergency vehicle in this title.

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

(Formerly § 12-356; Ref. W.Va. Code § 17C-3-4a)

§ 12C-304b. Traffic violations in construction zones; posting requirement; criminal penalty.

(a) At each and every location where street or highway construction work is to be conducted a sign shall be posted at least one thousand feet from the construction site, or as close to one thousand feet from the construction site as is practicable given the location of the site when workers are present, notifying all motorists as to the speed limit and displaying the words “construction work”.

(b) Any person who exceeds any posted speed restriction or traffic restriction at a construction site referred to in subsection (a) of this section by less than fifteen miles per hour is guilty of a misdemeanor and, upon conviction thereof, shall be fined not more than two hundred dollars.

(c) Any person who exceeds any posted speed restriction or traffic restriction at a construction site referred to in subsection (a) of this section by fifteen miles per hour or more is guilty of a misdemeanor and, upon conviction thereof, shall be fined not more than two hundred dollars.

(d) Nothing in this section shall be construed to preclude prosecution of any operator of a motor vehicle who commits a violation of any other provision of this code for such violation.

(Ref. W.Va. Code § 17C-3-4b)

§ 12C-305. 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 said terms and lights shall indicate and apply to drivers of vehicles and pedestrians as follows:

- (a) Green alone or “go”:
 - 1. Vehicular traffic facing the signal, except when prohibited under § 12C-1202 of this title may proceed straight through or turn right or left unless a sign at such place prohibits either such turn. But vehicular traffic, including vehicles and to turning right or left, shall yield the right-of-way to other vehicles and to pedestrians lawfully within the intersection or an adjacent crosswalk at the time such signal is exhibited.
 - 2. Pedestrians facing the signal may proceed across the roadway within any marked or unmarked crosswalk.
- (b) Yellow alone or “caution” when showing following the green or “go” signal:
 - 1. Vehicular traffic facing the signal is thereby warned that the red or “stop” signal will be exhibited immediately thereafter and such vehicular traffic

shall not enter or be crossing the intersection when the red or “stop” signal is exhibited.

insufficient shall yield 2. Pedestrians facing such signal are thereby advised that there is time to cross the roadway, and any pedestrian then starting to cross the right-of-way to all vehicles.

crosswalk on (c) Red alone or “stop”:

close as intersection make a lawfully as directed by the Shepherdstown may “stop” signal at any effective when 1. Vehicular traffic facing the signal shall stop before entering the the near side of the intersection or, if none, then before entering the intersection and shall remain standing until green or “go” is shown alone except as provided in paragraphs (2) and (3) of this subdivision (c).

close as intersection street which may yield 2. A vehicle which is stopped in obedience to a red or “stop” signal as practicable at the entrance to the crosswalk on the near side of the or, if none, then at the entrance to the intersection, may cautiously right turn but such vehicle shall yield the right-of-way to pedestrians within a crosswalk and to other vehicular traffic proceeding signal at said intersection, except that the Corporation of by ordinance prohibit any such right turn against a red or intersection within the town, which ordinance shall be a sign is erected at such intersection giving notice thereof.

can do so 3. A vehicle which is stopped in obedience to a red or “stop” signal as practicable at the entrance to the crosswalk on the near side of the or, if none, then at the entrance to the intersection on a one-way intersects another one-way street on which traffic moves to the left, cautiously make a left turn into said one-way street but such vehicle shall the right-of-way to pedestrians lawfully within a crosswalk and to other vehicular traffic proceeding as directed by the signal at said intersection, except that the Corporation of Shepherdstown may by ordinance prohibit any such left turn against a red or “stop” signal at any intersection within the town, which ordinance shall be effective when a sign is erected at such intersection giving notice thereof.

intersection only yield the right-of-way other traffic lawfully using 4. No pedestrian facing such signal shall enter the roadway unless he safely and without interfering with any vehicular traffic.

can do so (d) Red with green arrow:

1. Vehicular traffic facing such signal may cautiously enter the to make the movement indicated by such arrow but shall to pedestrians lawfully within a crosswalk and to the intersection.

2. No pedestrian facing such signal shall enter the roadway unless he 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.

(Formerly § 12-357; Ref. W.Va. Code § 17C-3-5)

§ 12C-306. Pedestrian walk and wait signals; penalty.

(a) Whenever special pedestrian-control signals exhibiting the words “Walk” or “Wait” are in place such signals shall indicate as follows:

1. 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.
2. Wait. No pedestrian shall start to cross the roadway in the direction of such signal, but any pedestrian who has partially completed his or her crossing on the walk signal shall proceed to a sidewalk or safety island while the wait signal is showing.

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

(Formerly § 12-358; Ref. W.Va. Code § 17C-3-6)

§ 12C-307. Flashing signals.

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

1. Flashing red (stop signal). When a red lens is illuminated with 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.
2. Flashing yellow (caution signal). When a yellow lens is illuminated with rapid intermittent flashes, drivers of vehicles may proceed through the intersection or past such signal only with caution.

(Formerly § 12-359; Ref. W.Va. Code § 17C-3-7)

§ 12C-308. Display of unauthorized devices, signs, etc., such devices, etc., declared nuisance and subject to removal.

(a) No person shall place, maintain, or display upon or in view of any highway any unauthorized traffic-control device or traffic-control signal, or any unauthorized sign, signal, marking, or device which purports to be or is an imitation of or resembles an official traffic-control device or railroad sign or signal, or which attempts to direct the movement of traffic, or which hides from view or interferes with the effectiveness of any official traffic-control device or any railroad sign or signal, and no person shall place or maintain nor shall any public authority permit upon any highway any traffic-control device bearing thereon any commercial advertising. This shall not be deemed to prohibit the erection upon private property adjacent to highway of signs giving useful directional information and of a type that cannot be mistaken for official signs.

(b) Every such prohibited device, signal, sign or marking is hereby declared to be a public nuisance and the Chief of Police of Shepherdstown, or other authority having jurisdiction over the highway is hereby empowered to remove the same or cause it to be removed without notice.

(Formerly § 12-360; Ref. W.Va. Code § 17C-3-8)

§ 12C-309. 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.

(Formerly § 12-361; Ref. W.Va. Code § 17C-3-9)

CHAPTER 4 ACCIDENTS

§ 12C-401. Accidents involving death or personal injury.

(a) The driver of any vehicle involved in an accident resulting in injury to or death of any person shall immediately stop the vehicle at the scene of the accident or as close thereto as possible but shall then forthwith return to and shall remain at the scene of the accident until he or she has complied with the requirements of § 12C-403 of this chapter: Provided, That the driver may leave the scene of the accident as may reasonably be necessary for the purpose of rendering assistance to an injured person as required by said section 403. Every such stop shall be made without obstructing traffic more than is necessary.

(b) Any person violating the provisions of subsection (a) of this section after being involved in an accident resulting in the death of any person shall be charged with a violation of § 17C-4-1 of the West Virginia Code, as amended.

(c) Any person violating the provisions of subsection (a) of this section after being involved in an accident resulting in physical injury to any person is guilty of a misdemeanor and, upon conviction thereof, shall be punished by confinement in a county or regional jail for not more than thirty (30) days, or fined not more than one thousand dollars, or both.

(Ref. W.Va. Code § 17C-4-1)

§ 12C-402. 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 but shall forthwith return to and in every event shall remain at the scene of such accident until he has fulfilled the requirements of § 12C-403 of this chapter. Every such stop shall be made without obstructing traffic more than is necessary. Any person failing to stop or comply with said requirements under such circumstances shall be guilty of a misdemeanor.

(Formerly § 12-362; Ref. W.Va. Code § 17C-4-2)

§ 12C-403. Duty to give information and render aid.

The driver of any vehicle involved in an accident resulting in injury to or death of any person or damage to any vehicle which is driven or attended by any person shall give his or her name, address and the registration number of the vehicle he or she is driving and shall upon request and if available exhibit his or her driver's license to the person struck or the driver or occupant of or person attending any vehicle collided with and shall render to any person injured in 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.

(Formerly § 12-363; Ref. W.Va. Code § 17C-4-3)

§ 12C-404. 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.

(Formerly § 12-364; Ref. W.Va. Code § 17C-4-4)

§ 12C-405. 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 and of his or her name and address and of the registration number of the vehicle he or she is driving and shall upon request and if available exhibit his or her driver's license and shall make report of such accident when and as required in § 12C-407 of this chapter.

(Ref. W.Va. Code § 17C-4-5)

§ 12C-406. Immediate reports of accidents.

The driver of a vehicle involved in an accident resulting in injury to or death of any person or total property damage to an apparent extent of five hundred dollars or more shall immediately by the quickest means of communication, whether oral or written, give notice of such accident to the Shepherdstown Police Department if such accident occurs within the town, otherwise to the office of the county sheriff or the nearest office of the West Virginia state police.

(Formerly § 12-365; Ref. W.Va. Code § 17C-4-6)

§ 12C-407. Written reports of accidents.

Every police officer who, in the regular course of duty, investigates a motor vehicle accident occurring on the public highways or streets of Shepherdstown resulting in bodily injury to or death of any person or total property damage to an apparent extent of five hundred dollars or more shall, either at the time of and at the scene of the accident or thereafter by interviewing participants or witnesses, within twenty-four hours after completing such investigation, forward a written report of such accident to the division of motor vehicles. Every accident report required under the provisions of this section shall be made on a form, prepared and supplied by the division of motor vehicles.

(Ref. W.Va. Code § 17C-4-7)

§ 12C-408. When driver unable to report.

Whenever the driver of a vehicle is physically incapable of making an immediate report of an accident as required in § 12C-406 of this chapter and there was another occupant in the vehicle at the time of the accident capable of making a report, such occupant shall make or cause to be made said report not made by the driver.

(Ref. W.Va. Code § 17C-4-8)

§ 12C-409. Reserved.

§ 12C-410. Penalty for failure to report.

Any person convicted of failing to make a report as required herein shall be punished as provided in § 12C-1801 of this title.

(Ref. W.Va. Code § 17C-4-10)

§ 12C-411. Reserved.

§ 12C-412. Garages to report bullet damage.

The person in charge of any garage or repair shop to which is brought any motor vehicle which shows evidence of having been struck by any bullet, shall report to the Shepherdstown Police Department or any other appropriate local law-enforcement agency within twenty-four hours after such motor vehicle is received, giving the engine number, registration number, and the name and address of the owner or operator of such vehicle.

(Ref. W.Va. Code § 17C-4-12)

§ 12C-413. Reserved.

§ 12C-414. Reserved.

§ 12C-415. Accident reports to be filed with the Shepherdstown Police Department.

The driver of a vehicle involved in an accident shall file with the Shepherdstown Police Department a report of such accident. All such reports shall be for the confidential use of the Police Department.

(Ref. W.Va. Code § 17C-4-15)

§ 12C-416. Accidents involving state and municipal property; reports to be provided.

Whenever a report of a motor vehicle accident prepared by a Shepherdstown police officer, in the regular course of his duties, indicates that as a result of such accident damage has occurred to any bridge, sign, guardrail or other property, exclusive of licensed motor vehicles, a copy of such report shall, in the case of such property belonging to the division of highways, be provided to the commissioner of the division of highways, and, in the case of such property belonging to the Corporation of Shepherdstown, be provided to the Mayor of Shepherdstown. The copies of such reports shall be provided to the commissioner or Mayor, as applicable, without cost to them.

(Ref. W.Va. Code § 17C-4-16)

CHAPTER 5
SERIOUS TRAFFIC OFFENSES

§ 12C-501. Negligent homicide; penalties.

(a) When the death of any person ensues within one year as a proximate result of injury received by the driving of any vehicle anywhere in this town in reckless disregard of the safety of others, the person so operating such vehicle shall be guilty of negligent homicide.

(b) Any person convicted of negligent homicide shall be punished by imprisonment for not more than one (1) year nor by fine of not less than one hundred dollars nor more than one thousand dollars, or by both such fine and imprisonment.

(Ref. W.Va. Code § 17C-5-1)

§ 12C-502. Driving under influence of alcohol, controlled substances or drugs; penalties. (Rev. 08-2021)

(a) Definitions.

(1) “Impaired state” means a person:

A. Is under the influence of alcohol;

B. Is under the influence of any controlled substance;

C. Is under the influence of any other drug;

D. Is under the combined influence of alcohol and any controlled substance or any other drug; or

E. Has an alcohol concentration in his or her blood of eight hundredths of one percent or more, by weight.

(2) “Bodily injury” means injury that causes substantial physical pain, illness or any impairment of physical condition.

(3) “Controlled substance” has the meaning provided in § 60A-1-101 of the West Virginia Code.

(4) “Serious bodily injury” means bodily injury that creates a substantial risk of death, that causes serious or prolonged disfigurement, prolonged impairment of health, or prolonged loss or impairment of the function of any bodily organ.

(b) Any person who drives a vehicle in this Town while he or she is in an impaired state, and such impaired state proximately causes a bodily injury to any person other than himself or herself, is guilty of a misdemeanor and, upon conviction thereof, shall be confined in jail for not less than one day nor more than one year and shall be fined not less than \$200 nor more than \$1,000, and shall have his or her license to operate a motor vehicle revoked by the Commissioner of the Division of Motor Vehicles for a period of two years or for a period of time conditioned on

participation in the test and lock program in accordance with § 17C-5A-3a of the West Virginia Code: *Provided*, That if the person has previously been convicted under this section, the person shall have his or her license to operate a motor vehicle revoked by the Commissioner of the Division of Motor Vehicles for life or for a period of time conditioned on participation in the test and lock program in accordance with § 17C-5A-3a of the West Virginia Code. Any jail term imposed pursuant to this subsection shall include actual confinement of not less than 24 hours: *Provided, however*, That a person sentenced pursuant to this subsection shall receive credit for any period of actual confinement he or she served upon arrest for the subject offense. Any person who drives a vehicle on any public highway or private road in this Town while he or she has an alcohol concentration in his or her blood of fifteen hundredths of one percent or more, by weight, is guilty of a misdemeanor and, upon conviction thereof, shall be confined in jail for not less than two days nor more than six months, which jail term is to include actual confinement of not less than 24 hours, and shall be fined not less than \$200 nor more than \$1,000, and shall have his or her license to operate a motor vehicle revoked by the Commissioner of the Division of Motor Vehicles for a period of one year or for a period of time conditioned on participation in the test and lock program in accordance with § 17C-5A-3a of the West Virginia Code. A person sentenced pursuant to this subsection shall receive credit for any period of actual confinement he or she served upon arrest for the subject offense.

- (c) Any person who drives a vehicle on any public highway or private road in this Town: (1) while he or she is in an impaired state; or (2) while he or she is in an impaired state but has an alcohol concentration in his or her blood of less than fifteen hundredths of one percent, by weight, is guilty of a misdemeanor and, upon conviction thereof, may be confined in jail for up to six months and shall be fined not less than \$100 nor more than \$500, and shall have his or her license to operate a motor vehicle revoked by the Commissioner of the Division of Motor Vehicles for a period of six months or for a period of time conditioned on participation in the test and lock program in accordance with § 17C-5A-3a of the West Virginia Code: *Provided*, That a person sentenced pursuant to this subsection shall receive credit for any period of actual confinement he or she served upon arrest for the subject offense.
- (d) Any person who drives a vehicle on any public highway or private road in this Town while he or she has an alcohol concentration in his or her blood of fifteen hundredths of one percent or more, by weight, is guilty of a misdemeanor and, upon conviction thereof, shall be confined in jail for not less than two days nor more than six months, which jail term is to include actual confinement of not less than 24 hours, and shall be fined not less than \$200 nor more than \$1,000, and shall have his or her license to operate a motor vehicle revoked by the Commissioner of the Division of Motor Vehicles for a period of one year or for a period of time conditioned on participation in the test and lock program in accordance with § 17C-5A-3a of the West Virginia Code. A person sentenced pursuant to this subsection shall receive credit for any period of actual confinement he or she served upon arrest for the subject offense.
- (e) Any person who, being a habitual user of narcotic drugs or amphetamines, or any derivative thereof, drives a vehicle on any public highway or private road in this Town is guilty of a misdemeanor and, upon conviction thereof, shall be confined in jail for not less than one day nor more than six months, which jail term is to include actual confinement of not less than 24 hours,

and shall be fined not less than \$100 nor more than \$500, and shall have his or her license to operate a motor vehicle revoked by the Commissioner of the Division of Motor Vehicles for a period of six months. A person sentenced pursuant to this subsection shall receive credit for any period of actual confinement he or she served upon arrest for the subject offense.

- (f) Any person who knowingly permits his or her vehicle to be driven on any public highway or private road in this Town by any other person who is in an impaired state is guilty of a misdemeanor and, upon conviction thereof, shall be confined in jail for not more than six months and shall be fined not less than \$100 nor more than \$500, and shall have his or her license to operate a motor vehicle revoked by the Commissioner of the Division of Motor Vehicles for a period of six months or for a period of time conditioned on participation in the test and lock program in accordance with § 17C-5A-3a of the West Virginia Code.
- (g) Any person who knowingly permits his or her vehicle to be driven on any public highway or private road in this Town by any other person who is a habitual user of narcotic drugs or amphetamines, or any derivative thereof, is guilty of a misdemeanor and, upon conviction thereof, shall be confined in jail for not more than six months and shall be fined not less than \$100 nor more than \$500, and shall have his or her license to operate a motor vehicle revoked by the Commissioner of the Division of Motor Vehicles for a period of six months.(h) Any person under the age of 21 years who drives a vehicle on any public highway or private road in this Town while he or she has an alcohol concentration in his or her blood of two hundredths of one percent or more, by weight, but less than eight hundredths of one percent, by weight, for a first offense under this subsection is guilty of a misdemeanor and, upon conviction thereof, shall be fined not less than \$25 nor more than \$100, and have his or her license to operate a motor vehicle suspended by the Commissioner of the Division of Motor Vehicles for a period of 60 days or for a period of time conditioned on participation in the test and lock program in accordance with § 17C-5A-3a of the West Virginia Code. For a second or subsequent offense under this subsection, the person is guilty of a misdemeanor and, upon conviction thereof, shall be confined in jail for 24 hours and shall be fined not less than \$100 nor more than \$500, and shall have his or her license to operate a motor vehicle revoked by the Commissioner of the Division of Motor Vehicles for a period of one year or until the person's 21st birthday, whichever period is longer, or for a period of time conditioned on participation in the test and lock program in accordance with § 17C-5A-3a of the West Virginia Code. A person who is charged with a first offense under the provisions of this subsection may move for a continuance of the proceedings, from time to time, to allow the person to participate in the test and lock program as provided in § 17C-5A-3a of the West Virginia Code. Upon successful completion of the program, the court shall dismiss the charge against the person and expunge the person's record as it relates to the alleged offense. In the event the person fails to successfully complete the program, the court shall proceed to an adjudication of the alleged offense. A motion for a continuance under this subsection may not be construed as an admission or be used as evidence.

Notwithstanding subsection (h), a person shall have his or her license to operate a motor vehicle suspended or revoked for a minimum period of one year or for a period of time conditioned on participation in the test and lock program in accordance with § 17C-5A-3a of the West Virginia Code, if the person:(1) Has previously been convicted under this subsection and is subsequently convicted of an offense under another subsection of this section; or

- (2) Is convicted under this subsection and has previously been convicted of an offense under another subsection of this section.

Nothing in this subsection permits a shorter period of license revocation, license suspension, or participation in the test and lock program than is mandatory for the specific offense for which the person is convicted.

A person arrested and charged with an offense under the provisions of this subsection or subsection (b), (c), (d), (e), (f), or (g), of this section may not also be charged with an offense under this subsection arising out of the same transaction or occurrence.

- (i) Any person who drives a vehicle on any public highway or private road in this Town while he or she is in an impaired state and has within the vehicle one or more other persons who are unemancipated minors who have not yet reached their 16th birthday is guilty of a misdemeanor and, upon conviction thereof, shall be confined in jail for not less than two days nor more than 12 months, and shall be fined not less than \$200 nor more than \$1,000, and shall have his or her license to operate a motor vehicle revoked by the Commissioner of the Division of Motor Vehicles for a period of one year or for a period of time conditioned on participation in the test and lock program in accordance with § 17C-5A-3a of the West Virginia Code: *Provided*, That such jail term shall include actual confinement of not less than 48 hours: *Provided, however*, That a person sentenced pursuant to this subsection shall receive credit for any period of actual confinement he or she served upon arrest for the subject offense.
- (j) A person convicted of an offense under this section, who has previously been convicted of any offense under this section on one occasion, is guilty of a misdemeanor and, upon conviction thereof, shall be confined in jail for not less than six months nor more than one year, may be fined not less than \$1,000 nor more than \$3,000, and shall have his or her license to operate a motor vehicle revoked by the Commissioner of the Division of Motor Vehicles for 10 years or for a period of time conditioned on participation in the test and lock program in accordance with § 17C-5A-3a of the West Virginia Code: *Provided*, That if the second conviction is for an offense as described in subsection (b) of this section and the subsection creating the offense requires a period of incarceration, period of license revocation, or fine that is greater than what is required for a conviction under this subsection, the greater period of incarceration, period of revocation, or fine shall be imposed: *Provided, however*, That this section does not apply to a second conviction that is subject to a period of license revocation under subsection (h) of this section.
- (k) For purposes of subsection (j) of this section relating to second offenses, the following events shall be regarded as offenses under this section:
 - (1) Any conviction under the provisions of subsection (b), (c), (d), (e), (f) or (g) of this section or under a prior enactment of this section for an offense which occurred within the ten-year period immediately preceding the date of arrest in the current proceeding;

- (2) Any conviction under a municipal ordinance of this State or any other state or a statute of the United States or of any other state of an offense which has the same elements as an offense described in subsection (b), (c), (d), (e), (f) or (g) of this section, which offense occurred within the ten-year period immediately preceding the date of arrest in the current proceeding; and
 - (3) Any period of conditional probation imposed pursuant to West Virginia Code 17C-5-2(b) for violation of subsection (c) of this section, which violation occurred within the ten-year period immediately preceding the date of arrest in the current proceeding.
- (l) A person may be charged in a warrant or indictment or information for a second or subsequent offense under this section if the person has been previously arrested for or charged with a violation of this section which is alleged to have occurred within the applicable time period for prior offenses, notwithstanding the fact that there has not been a final adjudication of the charges for the alleged previous offense. In that case, the warrant or indictment or information must set forth the date, location and particulars of the previous offense or offenses. No person may be convicted of a second or subsequent offense under this section unless the conviction for the previous offense has become final, or the person has previously had a period of conditional probation imposed pursuant to West Virginia Code 17C- 5-2(b).
 - (m) The fact that any person charged with a violation of subsection (b), (c), (d) or (e) of this section, or any person permitted to drive as described under subsection (f) or (g) of this section, is or has been legally entitled to use alcohol, a controlled substance or a drug does not constitute a defense against any charge of violating subsection (b), (c), (d), (e), (f) or (g) of this section.
 - (n) A person whose license to operate a motor vehicle has been revoked or suspended by the Commissioner of the Division of Motor Vehicles pursuant to this section must complete a comprehensive safety and treatment program as set forth in § 17C-5A-3 of the West Virginia Code before his or her license to operate a motor vehicle can be reinstated and his or her driving privileges restored.
 - (o) For any offense for which an alternative revocation period is permitted conditioned upon participation in the test and lock program, an alternative sentence may not be imposed without the consent of the driver.
 - (p) Upon entering the order of conviction for an offense under this section, or the imposition of conditional probation as provided in § 17C-5-2b of the West Virginia Code, the clerk of the court shall immediately transmit the order to the Commissioner of the Division of Motor Vehicles.

Section 12C-502b. Deferral of further proceedings for certain first offenses upon condition of participation in motor vehicle alcohol test and lock program; procedure on charge of violation of conditions.

- (a) Except as provided in section (g) of this article, whenever any person who has not previously been convicted of any offense under this chapter or under any statute of the United States or of any state relating to driving under the influence alcohol, any controlled substance or any other drug:

- (1) Notifies the court within thirty days of his or her arrest of his or her intention to participate in a deferral pursuant to this section; and
 - (2) Pleads guilty to or is found guilty of driving under the influence of alcohol under subsection (c) of section 12C-502, the court, without entering a judgment of guilt and with the consent of the accused, shall defer further proceedings and, notwithstanding any provisions of this ordinance to the contrary, place him or her on probation, which conditions shall include that he or she successfully completes the Motor Vehicle Alcohol Test and Lock Program as provided in 17C-5A-3a of the West Virginia Code. Participation therein shall be for a period of at least one hundred and sixty-five days after he or she has served the fifteen days of license suspension imposed pursuant to 17C-5A-2 of the West Virginia Code.
- (b) A defendant's election to participate in deferral under this section shall constitute a waiver of his or her right to an administrative hearing as provided in 17C-5A-2 of the West Virginia Code.
- (c) If the prosecuting attorney files a motion alleging that the defendant during the period of the Motor Vehicle Alcohol Test and Lock program has been removed therefrom by the Division of Motor Vehicles or has failed to successfully complete the program before making a motion for dismissal pursuant to section (d) of this article, the court may issue such process as is necessary to bring the defendant before the court.
- (1) A motion alleging such violation filed pursuant to subsection (c)(1) must be filed during the period of the Motor Vehicle Alcohol Test and Lock Program or, if filed thereafter, must be filed within a reasonable time after the alleged violation was committed.
 - (2) When the defendant is brought before the court, the court shall afford the defendant an opportunity to be heard. If the court finds that the defendant has been rightfully removed from the Motor Vehicle Alcohol Test and Lock Program by the Division of Motor Vehicles, the court may order, when appropriate, that the deferral be terminated, and thereupon enter an adjudication of guilt and proceed as otherwise provided.
 - (3) Should the defendant fail to complete or be removed from the Motor Vehicle Alcohol Test and Lock Program, the defendant waives the appropriate statute of limitations and the defendant's right to a speedy trial under any applicable federal or state constitutional provisions, statutes or rules of court during the period of enrollment in the program.
- (d) When the defendant shall have completed satisfactorily the Motor Vehicle Alcohol Test and Lock Program and complied with its conditions, the defendant may move the court for an order dismissing the charges. This motion shall be supported by affidavit of the defendant and by certification of the Division of Motor Vehicles that the defendant has successfully completed the Motor Vehicle Alcohol Test and Lock Program. A copy of the motion shall be served on the prosecuting attorney who shall within thirty days after service advise the judge of any objections to the motion, serving a copy of such objections on the defendant or the defendant's attorney. If

there are no objections filed within the thirty-day period, the court shall thereafter dismiss the charges against the defendant. If there are objections filed with regard to the dismissal of charges, the court shall proceed as set forth in section (c) hereof.

- (e) Except as provided herein, unless a defendant adjudicated pursuant to this section be convicted of a subsequent violation of this article, discharge and dismissal under this section shall be without adjudication of guilt and is not a conviction for purposes of disqualifications or disabilities imposed by law upon conviction of a crime except for those provided in Article 5a of Chapter 17C of the West Virginia Code. Except as provided in subsections (j), (k) and (l), of Section 12C-502 pertaining to subsequent offenses, the effect of the dismissal and discharge shall be to restore the person in contemplation of law to the status he or she occupied prior to arrest and trial. No person as to whom a dismissal and discharge have been effected shall be thereafter held to be guilty of perjury, false swearing, or otherwise giving a false statement by reason of his or her failure to disclose or acknowledge his or her arrest or trial in response to any inquiry made of him or her for any purpose other than any inquiry made in connection with any subsequent offense as that term is defined in subsection (k) of Section 12C-502.
- (f) There may be only one discharge and dismissal under this section with respect to any person.
- (g) No person shall be eligible for dismissal and discharge under this section: (1) In any prosecution in which any violation of any other provision of Section 12C-502 or West Virginia Code 17C-5 has been charged; (2) if the person holds a commercial driver's license or operates commercial motor vehicle(s); (3) if the person has previously had his or her driver's license revoked under article Chapter 17C, Article 5 of the West Virginia Code or under any statute of the United States or of any state relating to driving under the influence alcohol, any controlled substance or any other drug; or (4) if the person refused the secondary chemical test pursuant to section seven of Chapter 17C, Article 5 of the West Virginia Code.
- (h) Notwithstanding any provision of this ordinance to the contrary, any person prosecuted for a violation of Section 12C-502 whose case is disposed of pursuant to the provisions of this section shall be liable for any court costs assessable against a person convicted of a violation of this ordinance. Payment of such costs may be made a condition of probation. The costs assessed pursuant to this subsection, whether as a term of probation or not, shall be distributed as other court costs in accordance with relevant municipal ordinances and state statutes.

Authority: W. Va. Code § 17C-5-2; W. Va. Code § 17C-5-2b; W. Va. Code § 17C-5-11.

First Reading: August 10, 2021

Second Reading: August 26, 2021

Adopted: August 26, 2022

§ 12C-502a. Definition of phrase “in this Town”; phrases synonymous with driving under the influence of alcohol; validation of warrants and indictments.

For the purposes of this chapter, the phrase “in this Town” shall mean anywhere within the physical boundaries of this Town, 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 § 12-502 of this chapter.

(c) From and after the effective date of this chapter, a warrant or indictment which charges or alleges an offense, prohibited by the provisions of § 12C-502 of this chapter, and which warrant or indictment uses any of the terms or phrases set forth in subsection (b) of this section, shall not thereby be fatally defective if such warrant or indictment otherwise informs the person so accused of the charges against him.

(Formerly § 12-1202; Ref. W.Va. Code § 17C-5-2a)

§ 12C-503. Reckless driving; penalties.

Section 12C-503. Reckless driving; penalties.

- (a) Any person who drives any vehicle upon any street or highway, or upon any residential street, or in any parking area, or upon the ways of any institution of higher education, whether public or private, or upon the ways of any state institution, or upon the property of any county boards of education, or upon any property within the state park and public recreation system established by the Director of the Division of Natural Resources pursuant to section three, article four, chapter twenty of the West Virginia Code, in this Town, in willful or wanton disregard for the safety of persons or property is guilty of reckless driving.
- (b) The provisions of subsection (a) of this section shall not apply to those areas which have been temporarily closed for racing sport events or which may be set aside by the director of the department of natural resources within the state park and recreation system for exclusive use by motorcycles or other recreational vehicles.
- (c) Every person convicted of reckless driving in this Town is guilty of a misdemeanor, and upon a first conviction thereof, shall be confined in jail for a period of not less than five days nor more than ninety days, or fined not less than twenty-five dollars nor more than five hundred dollars, or both, and upon conviction of a second or subsequent conviction thereof, shall be confined in jail not less than ten days nor more than six months, or fined not less than fifty dollars nor more than one thousand dollars, or both.
- (d) Notwithstanding the provisions of subsection (c) of this section, any person convicted of a violation of subsection (a) of this section who in doing so proximately causes another to suffer serious bodily injury in this Town shall, upon conviction, be confined in jail not less than ten days nor more than six months or fined not less than fifty dollars nor more than one thousand dollars, or both.
- (e) For purposes of subsection (d) of this section, “serious bodily injury” means bodily injury which creates a substantial risk of death, which causes serious or prolonged disfigurement, prolonged impairment of health or prolonged loss or impairment of the function of any bodily organ.

Authority: W.Va. Code § 17C-5-3; W.Va. Code § 17C-5-11

§ 12C-504. Implied consent to test; administration at direction of law-enforcement officer;

designation of type of test; definition of law-enforcement officer.

(a) Any person who drives a motor vehicle in this town is deemed to have given his or her consent by the operation of the motor vehicle to a preliminary breath analysis and a secondary chemical test of either his or her blood, breath or urine for the purposes of determining the alcoholic content of his or her blood.

(b) A preliminary breath analysis may be administered in accordance with the provisions of § 12C-505 of this chapter whenever a law-enforcement officer has reasonable cause to believe a person has committed an offense prohibited by § 12C-502 of this chapter.

(c) A secondary test of blood, breath or urine is incidental to a lawful arrest and is to be administered at the direction of the arresting law-enforcement officer having reasonable grounds to believe the person has committed an offense prohibited by § 12C-502 of this chapter.

(d) The Shepherdstown Police Department shall designate which type of secondary test is to be administered: Provided, That if the test designated is a blood test and the person arrested refuses to submit to the blood test, then the law-enforcement officer making the arrest shall designate either a breath or urine test to be administered. Notwithstanding the provisions of § 12C-507 of this chapter, the refusal to submit to a blood test only may not result in the revocation of the arrested person's license to operate a motor vehicle in this state.

(e) Any person to whom a preliminary breath test is administered who is then arrested shall be given a written statement advising him or her that his or her refusal to submit to the secondary chemical test pursuant to subsection (d) of this section, will result in the revocation of his or her license to operate a motor vehicle in this state for a period of at least one year and up to life.

(f) Any law-enforcement officer who has been properly trained in the administration of any secondary chemical test authorized by this chapter, including, but not limited to, certification by the division of health in the operation of any equipment required for the collection and analysis of a breath sample, may conduct the test at any location in the town: Provided, That the law-enforcement officer may conduct the test at the nearest available properly functioning secondary chemical testing device located outside the town, if (i) there is no properly functioning secondary chemical testing device located within the town or (ii) there is no municipal court judge available within the town for the arraignment of the person arrested. A law-enforcement officer who is directing that a secondary chemical test be conducted has the authority to transport the person arrested to where the secondary chemical testing device is located.

(g) If the arresting officer lacks proper training in the administration of a secondary chemical test, then any other law-enforcement officer who has received training in the administration of the secondary chemical test to be administered may, upon the request of the arresting law-enforcement officer and in his or her presence, conduct the secondary test. The results of a test conducted pursuant to this subsection may be used in evidence to the same extent and in the same manner as if the test had been conducted by the arresting law-enforcement officer.

(h) Only the person actually administering or conducting a test conducted pursuant to this chapter is competent to testify as to the results and the veracity of the test.

(i) For the purpose of this chapter, the term “law-enforcement officer” or “police officer” means, but is not limited to, any member of the Shepherdstown Police Department.
(Formerly § 12-1203; Ref. W.Va. Code § 17C-5-4)

§ 12C-505. 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 § 12C-502 of this chapter, the law-enforcement officer may require such person to submit to a preliminary breath analysis for the purpose of determining such person’s blood alcohol content. Such breath analysis must be administered as soon as possible after the law-enforcement officer has a reasonable belief that the person has been driving while under the influence of alcohol, controlled substances or drugs. Any preliminary breath analysis required under this section must be administered with a device and in a manner approved by the department of health for that purpose. The results of a preliminary breath analysis shall be used solely for the purpose of guiding the officer in deciding whether an arrest should be made. When a driver is arrested following a preliminary breath analysis, the tests as hereinafter provided in this chapter shall be administered in accordance with the provisions thereof.

(Formerly § 12-1204; Ref. W.Va. Code § 17C-5-5)

§ 12C-506. How blood test administered; additional test at option of person tested; use of test results; certain immunity from liability incident to administering test.

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

(Ref. W.Va. Code § 17C-5-6)

§ 12C-506a. Taking a child into custody; driving a motor vehicle with any amount of blood alcohol.

(a) A preliminary breath analysis may be administered to a child whenever a law-enforcement official has reasonable cause to believe the child to have been driving a motor vehicle with any amount of alcohol in his or her blood, for the purpose of determining the child's blood alcohol content. Such breath analysis must be administered as soon as possible after the law-enforcement officer arrives at a reasonable belief that the child has been driving a motor vehicle with any amount of alcohol in his or her blood. Any preliminary breath analysis administered pursuant to this subsection must be administered with a device and in a manner approved by the division of health for that purpose. If a preliminary breath analysis is administered, the results shall be used solely for the purpose of guiding the officer in deciding whether the child, at the time of driving the motor vehicle, had an alcohol concentration in his or her blood of two hundredths of one percent or more, by weight, and should therefore be taken into custody to administer a secondary test in accordance with the provisions of this section.

(b) A child may be taken into custody by a law-enforcement official without a warrant or court order if the official has reasonable grounds to believe the child to have been driving a motor vehicle with any amount of alcohol in his or her blood. If a preliminary breath analysis is administered and the results of the analysis indicate that the child has an alcohol concentration in his or her blood of less than two hundredths of one percent, by weight, the child may not be taken into custody unless other grounds exist under § 49-5-8(b) of the West Virginia Code. Upon taking a child into custody pursuant to the provisions of this section, the official shall take

all reasonable steps to cause notification to be made to the child's parent or custodian or, if the parent or custodian cannot be located, to a close relative.

(c) Upon taking a child into custody pursuant to this section, the official shall take the child to a facility where a secondary test of the child's blood or urine may be administered at the direction of the official or a test of the child's breath may be administered by the official. The Shepherdstown Police Department shall designate whether the secondary test is a test of either blood, breath or urine: Provided, That if the test so designated is a blood test and the child refuses to submit to the blood test, then the law-enforcement official taking the child into custody shall designate in lieu thereof a breath test to be administered. Notwithstanding the provisions of § 12C-507 of this chapter, a refusal to submit to a blood test only shall not result in the revocation of the child's license to operate a motor vehicle in this state. Any child taken into custody pursuant to this section shall be given a written statement advising him or her that a refusal to submit to a secondary test of either blood, breath or urine, as finally designated by the law-enforcement agency or official in accordance with this subsection, will result in the suspension of his or her license to operate a motor vehicle in this state for a period of at least thirty days or a revocation of the license for a period up to life.

(d) If the Shepherdstown Police Department does not have available the testing equipment or facilities necessary to conduct any secondary breath test which may be administered pursuant to the provisions of this section, then the law-enforcement official who took the child into custody may request another qualified person to administer a secondary breath test: Provided, That the breath test shall be administered in the presence of the official who took the child into custody. The results of such breath test may be used in evidence to the same extent and in the same manner as if such test had been conducted by the law-enforcement official who took the child into custody. The qualified person administering the breath test must be a member of the West Virginia state police, the sheriff of the county wherein the child was taken into custody or any deputy of such sheriff, or a law-enforcement official of another municipality within the county wherein the child was taken into custody. Only the person actually administering the secondary breath test is competent to testify as to the results and the veracity of the test. If the secondary test is a blood test, the test shall be conducted in accordance with the provisions of § 12C-506 of this chapter.

(e) After taking the child into custody, if the law-enforcement official has reasonable cause to believe that the act of the child in driving the motor vehicle is such that it would provide grounds for arrest for an offense defined under the provisions of § 12C-502 of this chapter if the child were an adult, then the official shall proceed to treat the child in the same manner as any other child taken into custody without a warrant or court order, in accordance with the provisions of § 12C-508 of this chapter.

(f) If the results of any secondary test administered pursuant to this section indicate that the child, at the time of driving the motor vehicle, had an alcohol concentration in his or her blood of ten hundredths of one percent or less, by weight, and if the law-enforcement official does not have reasonable cause to believe that the act of the child in driving the motor vehicle is such that it would provide grounds for arrest for an offense defined under the provisions of §

12C-502 of this chapter if the child were an adult, then the official shall release the child: Provided, That if the results of any secondary test administered pursuant to this section indicate that the child, at the time of driving the motor vehicle, had an alcohol concentration in his or her blood of two hundredths of one percent or more, by weight, the child shall only be released to a parent or custodian, or to some other responsible adult.

(Ref. W.Va. Code § 17C-5-6a)

§ 12C-507. Refusal to submit to tests; revocation of license or privilege; consent not withdrawn if person arrested is incapable of refusal; hearing.

(a) If any person under arrest as specified in § 12C-504 of this chapter refuses to submit to any secondary chemical test, the tests shall not be given: Provided, That prior to such refusal, the person is given a written statement advising him that his refusal to submit to the secondary test finally designated will result in the revocation of his license to operate a motor vehicle in this state for a period of at least one year and up to life. If a person initially refuses to submit to the designated secondary chemical test after being informed in writing of the consequences of such refusal, he shall be informed orally and in writing that after fifteen minutes said refusal shall be deemed to be final and the arresting officer shall after said period of time expires have no further duty to provide the person with an opportunity to take the secondary test. The officer shall within forty-eight hours of such refusal, sign and submit to the commissioner of motor vehicles a written statement of the officer that (1) he had reasonable grounds to believe such person had been driving a motor vehicle in this town while under the influence of alcohol, controlled substances or drugs; (2) such person was lawfully placed under arrest for an offense relating to driving a motor vehicle in this town while under the influence of alcohol, controlled substances or drugs; (3) such person refused to submit to the secondary chemical test finally designated in the manner provided in § 12C-504 of this chapter; and (4) such person was given a written statement advising him that his license to operate a motor vehicle in this state would be revoked for a period of at least one year and up to life if he refused to submit to the secondary test finally designated in the manner provided in § 12C-504 of this chapter. The signing of the statement required to be signed by this section shall constitute an oath or affirmation by the person signing such statement that the statements contained therein are true and that any copy filed is a true copy. Such statement shall contain upon its face a warning to the officer signing that to willfully sign a statement containing false information concerning any matter or thing, material, or not material, is false swearing and is a misdemeanor. Upon receiving the statement the commissioner shall make and enter an order revoking such person's license to operate a motor vehicle in this state for the period prescribed by § 17C-5-7 of the West Virginia Code.

Any person who is unconscious or who is otherwise in a condition rendering him incapable of refusal, shall be deemed not to have withdrawn his consent for a test of his blood, breath or urine as provided in § 12C-504 of this chapter and the test may be administered although such person is not informed that his failure to submit to the test will result in the revocation of his license to operate a motor vehicle in this state for the period provided for in this section.

(b) A person whose license to operate a motor vehicle in this state has been revoked shall be afforded an opportunity to be heard, in accordance with the provisions of § 17C-5A-2 of the West Virginia Code.

(Formerly § 12-1205; Ref. W.Va. Code § 17C-5-7)

§ 12C-508. Interpretation and use of chemical test.

(a) Upon trial for the offense of driving a motor vehicle in this town 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 or her blood, breath or urine, is admissible, if the sample or specimen was taken within two hours from and after the time of arrest or of the acts alleged. The evidence gives rise to the following presumptions or has the following effect:

- not
- (1) Evidence that there was, at that time, five hundredths of one percent or less, by weight, of alcohol in his or her blood, is prima facie evidence that the person was 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 *is* relevant evidence, but it is not to be given prima facie effect in indicating whether the person was under the influence of alcohol;
 - (3) Evidence that there was, at that time, ten hundredths of one percent or more, by weight, of alcohol in his or her blood, shall be admitted as prima facie evidence that the person was under the influence of alcohol.

(b) A determination of the percent, by weight, of alcohol in the blood shall be based upon a formula of:

- (1) The number of grams of alcohol per one hundred cubic centimeters of blood;
- (2) The number of grams of alcohol per two hundred ten liters of breath;
- (3) The number of grams of alcohol per sixty-seven milliliters of urine; or
- (4) The number of grams of alcohol per eighty-six milliliters of serum.

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

(d) The provisions of this chapter do not limit the introduction in any administrative or judicial proceeding of any other competent evidence bearing on the question of whether the person was under the influence of alcohol, controlled substances or drugs.

(Formerly § 12-1206; Ref. W.Va. Code § 17C-5-8)

§ 12C-509. Right to demand test.

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

(Formerly § 12-1207; Ref. W.Va. Code § 17C-5-9)

§ 12C-510. Fee for withdrawing blood sample and making urine test; payment of fees.

A reasonable fee shall be allowed to the person withdrawing a blood sample or administering a urine test at the request and direction of a law-enforcement officer in accordance with the provisions of this chapter. If the person whose blood sample was withdrawn or whose urine was tested was arrested and charged with a violation of § 12C-502 of this chapter, the Corporation of Shepherdstown shall pay said fee, and if said person is subsequently convicted of such charge, such fee shall be taxed as a part of the costs of the criminal proceeding and shall be paid into the general fund of the town.

(Formerly § 12-1208; Ref. W.Va. Code § 17C-5-10)

CHAPTER 6
SPEED RESTRICTIONS

§ 12C-601. Speed limitations generally; penalty.(Revised August 2021)

(a) No person may drive a vehicle on a street or highway at a speed greater than is reasonable and prudent under the existing conditions and the actual and potential hazards. In every event speed shall be so controlled as may be necessary to avoid colliding with any person, vehicle or other conveyance on or entering the streets or highways in compliance with legal requirements and the duty of all persons to use due care.

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

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|-------------------------------------------------------------------------------------------------------------------------------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| children
school zone
highway
five feet
restriction
highway which is
barrier approved

otherwise | <p>(1) Fifteen miles per hour in a school zone during school recess or while are going to or leaving school during opening or closing hours. A is all school property including school grounds and any street or abutting such school grounds and extending one hundred twenty-along such street or highway from the school grounds. The speed does not apply to vehicles traveling on a controlled-access separated from the school or school grounds by a fence or by the division of highways;</p> <p>(2) Twenty-five miles per hour in any business or residence district;</p> <p>(3) Fifty-five miles per hour on open country highways, except as provided by this title.</p> |
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The speeds set forth in this section may be altered as authorized in §§ 12C-602 and 12C-603 of this chapter.

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

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

(e) Unless otherwise provided in this section, any person who violates the provisions of this section is guilty of a misdemeanor and, upon conviction thereof, shall be fined not more than one hundred dollars; upon a second conviction within one year thereafter, shall be fined not more than two hundred dollars; and, upon a third or subsequent conviction within two years thereafter, shall be fined not more than five hundred dollars: Provided, That if such third or subsequent conviction is based upon a violation of the provisions of this section where the offender exceeded the speed limit by fifteen miles per hour or more, then upon conviction, shall be fined not more than five hundred dollars or confined in the county or regional jail for not more than thirty (30) days, or both.

(f) Any person who violates the provisions of subdivision (1), subsection (b) of this section is guilty of a misdemeanor and, upon conviction thereof, shall be fined not less than one hundred dollars nor more than five hundred dollars: Provided, That if such conviction is based upon a violation of the provisions of subdivision (1), subsection (b) of this section where the offender exceeded the speed limit by fifteen miles per hour or more in the presence of one or more children, then upon conviction, shall be fined not less than one hundred dollars nor more than five hundred dollars or confined in the regional or county jail for not more than thirty (30) days, or both.

(g) If an owner or driver is arrested under the provisions of this section for the offense of driving above the posted speed limit on a controlled-access highway or interstate highway, and if the evidence shall show that the motor vehicle was being operated at ten miles per hour or less above said speed limit, then, upon conviction thereof, such person shall be fined not more than five dollars, plus court costs.

If an owner or driver is convicted under the provisions of this section for the offense of driving above the speed limit on a controlled-access highway or interstate highway of this state, and if the evidence shall show that the motor vehicle was being operated at ten miles per hour or less above said speed limit, then notwithstanding the provisions of § 17B-3-4 of the West Virginia Code, a certified abstract of the judgment on such conviction shall not be transmitted to the division of motor vehicles: Provided, That the provisions of this subsection do not apply to conviction of owners or drivers who have been issued a commercial driver's license as defined in § 17E-1-1 et seq. of the West Virginia Code if the offense was committed while operating a commercial vehicle.

(h) If an owner or driver is convicted in another state for the offense of driving above the maximum speed limit on a controlled-access highway or interstate highway, and if the maximum speed limit in such other state is less than the maximum speed limit for a comparable controlled-access highway or interstate highway in this state, and if the evidence shall show that the motor vehicle was being operated at ten miles per hour or less above what would be the maximum speed limit for a comparable controlled-access highway or interstate highway in this state, then notwithstanding the provisions of § 17B-3-4 of the West Virginia Code, a certified abstract of the judgment on such conviction shall not be transmitted to the division of motor vehicles, or, if transmitted, shall not be recorded by the division, unless within a reasonable time after conviction, the person convicted has failed to pay all fines and costs imposed by the other state: Provided, That the provisions of this subsection do not apply to conviction of owners or drivers who have been issued a commercial driver's license as defined in § 17E-1-1 et seq. of the West Virginia Code, if the offense was committed while operating a commercial vehicle.

(Formerly § 12-12-302 (a) & (b); Ref. W.Va. Code § 17C-6-1)

§ 12C-602. Reserved.

§ 12C-603. When local authorities may alter speed limits.

(a) At intersection. Whenever the Corporation of Shepherdstown determines upon the basis of an engineering and traffic investigation that the speed permitted under this title at any intersection under its jurisdiction is greater than is reasonable or safe under the conditions found

to exist at such intersection, the Corporation of Shepherdstown subject to subsection (e) of this section shall determine and declare a reasonable and safe speed limit thereat, which shall be effective at all times or during hours of daylight or darkness or at such other times as may be determined when appropriate signs giving notice thereof are erected at such intersection or upon the approaches thereto.

(b) Authority to increase twenty-five mile limit. The Corporation of Shepherdstown may in its discretion, but subject to subsection (e) of this section, authorize by ordinance higher speeds than those stated in § 12C-601 of this chapter upon through highways or upon highways or portions thereof where there are no intersections or between widely spaced intersections, which higher speed shall be effective at all times or during hours of daylight or at such other times as may be determined when signs are erected giving notice of the authorized speed, but the Corporation of Shepherdstown shall not have authority to modify or alter the basic rule set forth in subsection (a), section one of this chapter or in any event to authorize by ordinance a speed in excess of fifty-five miles per hour.

(c) Authority to decrease fifty-five mile limit. Whenever the Corporation of Shepherdstown determines upon the basis of an engineering and traffic investigation that the speed under this title upon open country highway outside a business or residence district is greater than is reasonable or safe under the conditions found to exist upon such street or highway, it may determine and declare a reasonable and safe limit thereon but in no event less than thirty-five miles per hour and subject to subsection (e) of this section, which reduced limit shall be effective at all times or during hours of darkness or at other times as may be determined when appropriate signs giving notice thereof are erected upon such street or highway.

(d) Authority to decrease twenty-five mile limit. The Corporation of Shepherdstown may in its discretion, but subject to subsection (e) of this section, authorize by ordinance lower speeds than those stated in subdivision (2), subsection (b), section one of this chapter upon local dedicated rights of way in a residential district or portions thereof, which lower speed shall be effective at all times or during hours of daylight or at such other times as may be determined when signs are erected giving notice of the authorized speed.

(e) Alteration of limits on state highways in Shepherdstown. Alteration of limits on state highways or extensions thereof in Shepherdstown by the Town Council shall not be effective until such alteration has been approved by the West Virginia commissioner of highways. (Ref. W.Va. Code § 17C-6-3)

§ 12C-603a. Minimum speed regulations; penalty.

(a) No person shall drive a motor vehicle at such a slow speed as to impede the normal and reasonable movement of traffic except when reduced speed is necessary for safe operation or in compliance with law. (§ 12-302(c))

(b) Whenever the Corporation of Shepherdstown determines on the basis of an engineering and traffic investigation that slow speeds on any part of the highway consistently impede the normal and reasonable movement of traffic, the Town Council may determine and declare a minimum speed limit below which no person shall drive a vehicle except when necessary for safe operation or in compliance with law.

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

(Ref. W.Va. Code § 17C-6-3a)

§ 12C-604. Special speed limitations on vehicles not designed for carrying passengers and equipped with pneumatic tires.

Subject to all other speed restrictions of this title 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. Forty miles per hour on open country highway;
4. Trucks licensed at eight thousand pounds gross vehicle weight or less shall be permitted the same speed as passenger cars.

(Ref. W.Va. Code § 17C-6-4)

§ 12C-605. Special speed limitations; penalty.

(a) No person shall drive any vehicle equipped with other than pneumatic tires at a speed greater than a maximum of ten miles per hour.

(b) No person shall drive a vehicle over any bridge or other elevated structure constituting a part of a highway at a speed which is greater than the maximum speed which can be maintained with safety to such bridge or structure, when such structure is signposted.

(c) Reserved.

(d) Upon the trial of any person charged with a violation of this section, proof of said determination of the maximum speed by the Corporation of Shepherdstown pursuant to this chapter and the existence of said signs shall constitute conclusive evidence of the maximum speed which can be maintained with safety to such bridge or structure.

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

(Formerly § 12-304; Ref. W.Va. Code § 17C-6-5)

§ 12C-606. Charging violations.

In every charge of violation of any speed regulations in this title the complaint, also the summons or notice to appear, shall specify the speed at which the defendant is alleged to have driven, also the speed applicable within the town and in the event charge shall also be made of violation of any other provision of this title, the complaint and the summons or notice to appear shall also specify such other offense alleged to have been committed.

(Formerly § 12-302(d); Ref. W.Va. Code § 17C-6-6)

§ 12C -607. Prima facie evidence of speed by devices employing microwaves; placing of signs relative to radar.

The speed of a motor vehicle may be proved by evidence obtained by use of any device designed to measure and indicate or record the speed of a moving object by means of microwaves, when such evidence is obtained by members of the West Virginia state police, by police officers of Shepherdstown, and by the sheriff and his deputies of the several counties of the State. The evidence so obtained shall be accepted as prima facie evidence of the speed of such vehicle.

(Ref. W.Va. Code § 17C-6-7)

§ 12C-608. Racing on streets and highways prohibited; council findings; penalties; mandatory revocation of licenses.

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

(a) It shall be unlawful for any person to engage in, or aid or abet by serving as lookout or timer or in any other capacity whatever, any speed race, as defined herein, on any public street or highway in this town. For the purposes of this subdivision, “speed race” means:

- 1. The operation of a motor vehicle in speed acceleration competition with another motor vehicle or motor vehicles; or
- 2. The operation of a motor vehicle in speed acceleration competition against time; or
- 3. The operation of a motor vehicle in speed competition with another motor vehicle or motor vehicles where the speed exceeds the lawful speed limit.

(b) Any person who violates the provisions of subdivision (a) of this section shall be guilty of a misdemeanor, and, upon conviction thereof, shall be punished for a first offense by a fine of not less than fifty dollars nor more than one hundred dollars, and for a second offense by a fine of not less than fifty dollars nor more than five hundred dollars, and for a third and each subsequent offense by a fine of not less than one hundred dollars nor more than one thousand dollars. For the purposes of this section, a forfeiture of bail or collateral deposited to secure such person’s appearance in court, which forfeiture has not been vacated, shall be equivalent to a final conviction. If at the time of any violation of the provisions of subdivision (a) of this section by any person as an operator of a motor vehicle, such person was not entitled to operate a motor vehicle in this State because his operator’s or chauffeur’s license, or privilege to drive in this State if such person be a nonresident, had earlier been suspended or revoked, then in addition to the offense, penalties and mandatory revocation provided for in § 17B-4-3 of the West Virginia Code shall be applicable.

(Ref. W.Va. Code § 17C-6-8)

§ 12C-609. Slow-moving vehicle emblem.

All farm machinery and other machinery including all road construction machinery except when guarded by flagmen or flares, designed to operate at twenty-five miles per hour or less, traveling on a public highway during day or night shall display a triangular slow-moving emblem on the rear of the vehicle.

(Formerly § 12-305; Ref. W.Va. Code § 17C-6-9)

CHAPTER 7
DRIVING ON RIGHT SIDE OF ROADWAY, OVERTAKING AND PASSING,
ETC.

§ 12C-701. Driving on right side of roadway; exceptions; penalty.

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

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

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

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

(Formerly § 12-307; Ref. W.Va. Code § 17C-7-1)

§ 12C-702. Passing vehicles proceeding in opposite directions; penalty.

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

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

(Formerly § 12-308; Ref. W.Va. Code § 17C-7-2)

§ 12C-703. Overtaking and passing vehicles proceeding in same direction - Passing on the left generally; penalty.

(a) 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 safe direction shall give an audible signal and pass to the left thereof at a distance and shall not again drive to the right side of the roadway until safely clear of the overtaken vehicle.

driver of
overtaking
her vehicle

2. Except when overtaking and passing on the right is permitted, the an overtaken vehicle shall give way to the right in favor of the vehicle on audible signal and shall not increase the speed of his or until completely passed by the overtaking vehicle.

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

(Formerly § 12-309; Ref. W.Va. Code § 17C-7-3)

§ 12C-704. Same – When overtaking on the right is permitted.

(a) The driver of a vehicle may overtake and pass upon the right of another vehicle only under the following conditions:

1. When the vehicle overtaken is making or about to make a left turn;
2. Upon a street or highway with unobstructed pavement not occupied by parked vehicles in each direction;
3. Upon a one-way street, or upon any roadway on which traffic is restricted to one direction of movement, where the roadway is free from obstructions and of sufficient width for two or more lines of moving vehicles.

(b) The driver of a vehicle may overtake and pass another vehicle upon the right only under conditions permitting such movement in safety. In no event shall such movement be made by driving off the pavement or main-traveled portion of the roadway.

(Formerly § 12-310; Ref. W.Va. Code § 17C-7-4)

§ 12C-705. Same– Limitations on overtaking on the left; penalty.

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

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

(Formerly § 12-311; Ref. W.Va. Code § 17C-7-5)

§ 12C-706. Same – Further limitations on driving to left of center of roadway; penalty.

(a) No vehicle shall at any time be driven to the left side of the roadway under the following conditions:

1. When approaching the crest of a grade or upon a curve in the highway where the driver's view is obstructed within such distance as to

create a hazard in the direction;

event another vehicle might approach from the opposite

- intersection
2. When approaching within one hundred feet of or traversing any or railroad grade crossing;
 3. When the view is obstructed upon approaching within one hundred feet of any bridge, viaduct, or tunnel.

(b) The foregoing limitations shall not apply upon a one-way roadway.

(c) Any person violating the provisions of this section is guilty of a misdemeanor and, upon conviction thereof, shall be fined not more than one hundred dollars; upon a second conviction within one year thereafter, shall be fined not more than two hundred dollars; and upon a third or subsequent conviction, shall be fined not more than five hundred dollars.
(Formerly § 12-312; Ref. W.Va. Code § 17C-7-6)

§ 12C-707. Same – No passing zones; penalty.

(a) The Corporation of Shepherdstown is hereby authorized to determine those portions of any highway or street under its jurisdiction where overtaking and passing or driving to the left of the roadway would be especially hazardous and may by appropriate signs or markings on the roadway indicate the beginning and end of such zones and when such signs or markings are in place and clearly visible to an ordinarily observant person every driver of a vehicle shall obey the directions thereof.

(b) Any person violating the provisions of this section is guilty of a misdemeanor and, upon conviction thereof, shall be fined not more than one hundred dollars; upon a second conviction within one year thereafter, shall be fined not more than two hundred dollars; and upon a third or subsequent conviction, shall be fined not more than five hundred dollars.
(Formerly § 12-313; Ref. W.Va. Code § 17C-7-7)

§ 12C-708. One-way roadways and rotary traffic islands; penalty.

(a) The Corporation of Shepherdstown may designate any highway, street, or any separate roadway under its jurisdiction for one-way traffic and shall erect appropriate signs giving notice thereof.

(b) Upon a roadway designated and signposted for one-way traffic a vehicle shall be driven only in the direction designated.

(c) A vehicle passing around a rotary traffic island shall be driven only to the right of such island.

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

(Ref. W.Va. Code § 17C-7-8)

§ 12C-709. Driving on roadways laned for traffic; penalty.

(a) Whenever any roadway has been divided into two or more clearly marked lanes for traffic the following rules in addition to all others consistent herewith shall apply:

single lane
ascertained

not be driven
in
is
designated
particular
vehicles shall

1. A vehicle shall be driven as nearly as practicable entirely within a and shall not be moved from such lane until the driver has first that such movement can be made with safety.
2. Upon a roadway which is divided into three lanes a vehicle shall in the center lane which is clearly marked as a left turn lane except 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 signposted to give notice of such allocation.
3. Official signs may be erected directing slow-moving traffic to use a lane or designating those lanes to be used by traffic moving in a direction regardless of the center of the roadway and drivers of obey the directions of every such sign.

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

(Formerly § 12-314; Ref. W.Va. Code § 17C-7-9)

§ 12C-710. Following too closely.

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

(b) It shall be unlawful for the operator of any motor truck, registered for a gross weight of more than eight thousand 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 two hundred feet of another motor truck, bus, special mobile equipment or any motor vehicle drawing another vehicle: Provided, That this provision shall not be construed to (1) prevent overtaking and passing, (2) apply upon any lane specially designated for the use of motor trucks or combinations of vehicles, or within any section of a roadway posted or marked as a “no-passing zone,” (3) apply to any convoy of vehicles of the military service of the United States or of this State and (4) apply to funeral processions.

(c) Motor vehicles being driven upon any roadway outside of a business or residence district in a caravan or motorcade whether or not towing other vehicles shall be so operated as to allow sufficient space between each such vehicle or combination of vehicles so as to enable any other vehicle to enter and occupy such space without danger. This provision shall not apply to (1) funeral processions; or (2) any convoy of vehicles of the military service of the United States or of this State.

(Formerly § 12-315; Ref. W.Va. Code § 17C-7-10)

§ 12C-711. Driving on divided highways; penalty.

(a) Whenever any highway has been divided into two roadways by leaving an intervening space or by a physical barrier or clearly indicated dividing section so constructed as to impede vehicular traffic, every vehicle shall be driven only upon the right-hand roadway and no vehicle shall be driven over, across, or within any such dividing space, barrier, or section,

except through an opening in such physical barrier or dividing section or space or at a crossover or intersection established by public authority.

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

(Formerly § 12-316; Ref. W.Va. Code § 17C-7-11)

§ 12C-712. Controlled-access roadway – Driving onto or from; penalty.

(a) No person shall drive a vehicle onto or from any controlled-access roadway except at such entrances and exits as are established by public authority.

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

(Formerly § 12-317; Ref. W.Va. Code § 17C-7-12)

§ 12C-713. Same – Restrictions on use by nonmotorized traffic, cycles, etc.

The Corporation of Shepherdstown may by ordinance with respect to any controlled-access roadway under its jurisdiction prohibit the use of any such roadway by pedestrians, bicycles, or other nonmotorized traffic or by any person operating a motor-driven cycle.

The Corporation of Shepherdstown adopting any such prohibitory regulation shall erect and maintain official signs on the controlled-access roadway on which such regulations are applicable and when so erected no person shall disobey the restrictions stated on such signs.

(Ref. W.Va. Code § 17C-7-13)

CHAPTER 8
TURNING AND STARTING AND SIGNALS ON STOPPING AND TURNING.

§ 12C-801. 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 chapter.

(Ref. W.Va. Code § 17C-8-1)

§ 12C-802. Right turns; penalty.

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

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

(Formerly § 12-318; Ref. W.Va. Code § 17C-8-2)

§ 12C-803. Left turns on two-way roadways; penalty.

(a) At any intersection where traffic is permitted to move in both directions on each roadway entering the intersection, an approach for a left turn shall be made in that portion of the right half of the roadway nearest the 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.

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

(Formerly § 12-319; Ref. W.Va. Code § 17C-8-3)

§ 12C-804. Left turns on other than two-way roadways; penalty.

(a) At any intersection where traffic is restricted to one direction on one or more of the roadways, the driver of a vehicle intending to turn left at any such intersection shall approach the intersection in the extreme left-hand lane lawfully available to traffic moving in the direction of travel of such vehicle and after entering the intersection the left turn shall be made so as to leave the intersection, as nearly as practicable, in the left-hand lane lawfully available to traffic moving in such direction upon the roadway being entered.

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

(Formerly § 12-320; Ref. W.Va. Code § 17C-8-4)

§ 12C-805. Specifications of different course for turns in Shepherdstown.

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

(Ref. W.Va. Code § 17C-8-5)

§ 12C-806. Turning on curve or crest of grade prohibited; penalty.

(a) No vehicle shall be turned so as to proceed in the opposite direction upon any curve, or upon the approach to, or near the crest of a grade, where such vehicle cannot be seen by the driver of any other vehicle approaching from either direction within five hundred feet.

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

(Formerly § 12-321; Ref. W.Va. Code § 17C-8-6)

§ 12C-807. Starting parked, etc., vehicle.

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

(Ref. W.Va. Code § 17C-8-7)

§ 12C-808. Turning movements and required signals; penalty.

(a) No person shall turn a vehicle at an intersection unless the vehicle is in proper position upon the roadway as required in §§ 12C-802, 12C-803, 12C-804, or 12C-805 of this chapter, or turn a vehicle to enter a private road or driveway or otherwise turn a vehicle from a direct course or move right or left upon a roadway unless and until such movement can be made with reasonable safety. No person shall so turn any vehicle without giving an appropriate signal in the manner hereinafter provided in the event any other traffic may be affected by such movement.

(b) A signal of intention to turn right or left when required shall be given continuously during not less than the last one hundred feet traveled by the vehicle before turning.

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

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

(Formerly § 12-322; Ref. W.Va. Code § 17C-8-8)

§ 12C-809. 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 said signals must be given by such a lamp or lamps or signal device.

(Formerly § 12-323; Ref. W.Va. Code § 17C-8-9)

§ 12C-810. Method of giving hand-and-arm signals.

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

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

(Formerly § 12-324; Ref. W.Va. Code § 17C-8-10)

CHAPTER 9
RIGHT-OF-WAY

§ 12C-901. 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 two 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 subsections (a) and (b) are modified at through highways and otherwise as hereinafter stated in this chapter.

(Formerly § 12-325; Ref. W.Va. Code § 17C-9-1)

§ 12C-902. Vehicle turning left at intersection.

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

(Formerly § 12-326; Ref. W.Va. Code § 17C-9-2)

§ 12C-903. Vehicle entering through highway or stop intersections.

(a) The driver of a vehicle shall stop as required by § 12C-1205 of this title at the entrance to a through highway and shall yield the right-of-way to other vehicles which have entered the intersection from said through highways or which are approaching so closely on said through highway as to constitute an immediate hazard, but said driver having so yielded may proceed.

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

(Formerly § 12-327; Ref. W.Va. Code § 17C-9-3)

§ 12C-904. 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 said highway.

(Formerly § 12-328; Ref. W.Va. Code § 17C-9-4)

§ 12C-905. Operation of vehicles on approach of authorized emergency vehicles.

(a) Upon the immediate approach of an authorized emergency vehicle equipped with at least one flashing lighted lamp of a color authorized by § 12C-1526 which is visible under normal atmospheric conditions from a distance of five hundred feet to the front of such vehicle other than a police vehicle when operated as an authorized emergency vehicle, and when the driver is giving audible signal by siren, exhaust whistle, or bell:

(1) The driver of every other vehicle shall yield the right-of-way and shall immediately drive to a position parallel to, and as close as possible to, the right-hand edge or curb of the roadway clear of any intersection and shall stop and remain in such position until the authorized emergency vehicle has passed, except when otherwise directed by a police officer.

(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.

(Formerly § 12-329; Ref. W.Va. Code § 17C-9-5)

§ 12C-906. Misdemeanor to violate provisions of this chapter; penalty.

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

(Ref. W.Va. Code § 17C-9-6)

CHAPTER 10
PEDESTRIANS' RIGHTS AND DUTIES

§ 12C-1001. Pedestrians subject to traffic regulations.

(a) Pedestrians shall be subject to traffic-control signals at intersections as provided in § 12C-305 of this title, but at all other places pedestrians shall be accorded the privileges and shall be subject to the restrictions stated in this chapter.

(Formerly § 12-601; Ref. W.Va. Code § 17C-10-1)

§ 12C-1002. Pedestrians' right-of-way in crosswalks.

(a) When traffic-control signals are not in place or not in operation the driver of a vehicle shall yield the right-of-way, slowing down or stopping if need be to so yield, to a pedestrian crossing the roadway within a crosswalk when the pedestrian is upon the half of the roadway upon which the vehicle is traveling, or when the pedestrian is approaching so closely from the opposite half of the roadway as to be in danger, but no pedestrian shall suddenly leave a curb or other place of safety and walk or run into the path of a vehicle which is so close that it is impossible for the driver to yield. This provision shall not apply under the conditions stated in § 12C-1003(b) of this chapter.

(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.

(Formerly § 12-602; Ref. W.Va. Code § 17C-10-2)

§ 12C-1003. 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) Any pedestrian crossing a roadway at a point where a pedestrian tunnel or overhead pedestrian crossing has been provided shall yield the right-of-way to all vehicles upon the roadway.

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

(Formerly § 12-603; Ref. W.Va. Code § 17C-10-3)

§ 12C-1004. 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.

(Formerly §§ 12-330 & 12-604; Ref. W.Va. Code §17C-10-4)

§ 12C-1005. Pedestrians to use right half of crosswalks.

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

(Formerly § 12-605; Ref. W.Va. Code § 17C-10-5)

§ 12C-1006. 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.

(Formerly § 12-706; Ref. W.Va. Code § 17C-10-6)

§ 12C-1007. Penalty for pedestrians violating the provisions of this chapter.

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

(Ref. W.Va. Code § 17C-10-7)

§ 12C-1008. 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.

(Formerly § 12-707; Ref. W.Va. Code § 17C-10-8)

Section 12C-1009. Stealing from or tampering with any parking meter, vending machine, pay telephone, cash machine, etc. (Adopted October 2021)

Any person who enters, forces or attempts to force an entrance into, tampers with, or inserts any part of an instrument, into any parking meter, vending machine, pay telephone, cash machine, money changing machine, or any other device designed to receive money, with intent to steal therefrom, is guilty of a misdemeanor, and upon conviction thereof shall be fined not more than three hundred dollars.

CHAPTER 10A
OPERATION OF ELECTRIC PERSONAL ASSISTIVE MOBILITY DEVICE

§ 12C-1001A. Definitions.

For purposes of this chapter, the definition of an “electric personal assistive mobility device” is the same definition as previously set forth in § 12C-166 of this title, and “operator” shall refer to the operator of an electric personal assistive mobility device.

(Ref. W.Va. Code § 17C-10A-1)

§ 12C-1002A. Equipment requirements and operating standards for electric personal assistive mobility devices; applicability of motor vehicle code; penalties.

(a) An electric personal assistive mobility device shall be equipped with:

1. Front, rear and side reflectors;
2. A braking system that enables the operator to bring the device to a controlled stop; and
3. If operated at any time from one-half hour after sunset to one-half hour before sunrise, a lamp that emits a white light that sufficiently illuminates the area in front of the device.

(b) An operator of an electric personal assistive mobility device traveling on a sidewalk, roadway or bicycle path shall have the rights and duties of a pedestrian and shall exercise due care to avoid colliding with pedestrians. An operator shall yield the right of way to pedestrians.

(c) Except as provided in this section, no other provisions of the motor vehicle code shall apply to electric personal assistive mobility devices.

(d) An operator who violates a provision of subsection (a) or (b) of this section shall receive a warning for the first offense. For a second or subsequent offense, the operator shall be punished by a fine of no less than ten dollars and no greater than one hundred dollars.

(Ref. W.Va. Code § 17C-10A-2)

CHAPTER 11
OPERATION OF BICYCLES AND PLAY VEHICLES.

§ 12C-1101. Obedience to chapter; duty of parents and guardians; applicability of chapter to bicycles.

(a) It is a misdemeanor for any person to do any act forbidden or fail to perform any act required in this chapter.

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

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

(Formerly § 12-701; Ref. W.Va. Code § 17C-11-1)

§ 12C-1102. Traffic laws apply to person riding bicycles.

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

(Formerly § 12-702; Ref. W.Va. Code § 17C-11-2)

§ 12C-1103. Riding on bicycle seats; carrying more than one person on bicycle.

(a) A person propelling a bicycle shall not ride other than upon or astride a permanent and regular seat attached thereto.

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

(Formerly § 12-703; Ref. W.Va. Code § 17C-11-3)

§ 12C-1104. Clinging to vehicles.

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

(Formerly § 12-704; Ref. W.Va. Code § 17C-11-4)

§ 12C-1105. 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 two abreast except on paths or parts of roadways set aside for the exclusive use of bicycles.

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

(Formerly § 12-705; Ref. W.Va. Code § 17C-12-5)

§ 12C-1106. Carrying articles.

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

(Ref. W.Va. Code § 17C-11-6)

§ 12C-1107. Lamps and other equipment on bicycles.

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

(b) No person shall operate a bicycle unless it is equipped with a bell or other device capable of giving a signal audible for a distance of at least one hundred feet, except that a bicycle shall not be equipped with nor shall any person use upon a bicycle any siren or whistle.

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

(Ref. W.Va. Code § 17C-11-7)

CHAPTER 11A
CHILD BICYCLE SAFETY ACT

§ 12C-1101A. Short title.

This chapter shall be known and may be cited as the “Child Bicycle Safety Act”.

(Ref. W.Va. Code § 17C-11A-1)

§ 12C-1102A. Town Council findings and purpose.

(a) The Town Council of Shepherdstown hereby finds and declares that:

1. Disability and death of children resulting from injuries sustained in bicycling accidents are a serious threat to the public health, welfare and safety of the people of this town, and the prevention of such disability and death is a goal of such people;

2. Head injuries are the leading cause of disability and death from bicycling accidents; and

3. The risk of head injury from bicycling accidents is significantly reduced for bicyclists who wear proper protective bicycle helmets; yet helmets are worn by fewer than five percent of child bicyclists nationwide.

(b) The purpose of this chapter is to reduce the incidence of disability and death resulting from injuries incurred in bicycling accidents by requiring that while riding on a bicycle on public roads, public bicycle paths and other public rights-of-way of this town, all bicycle operators and passengers under fifteen years of age wear approved protective bicycle helmets.

(Ref. W.Va. Code § 17C-11A-2)

§ 12C-1103A. Definitions.

As used in this chapter:

(a) “Bicycle” means a human-powered vehicle with wheels designed to transport, by the action of pedaling, one or more persons seated on one or more saddle seats on its frame. Such term also includes a human-powered vehicle, and any attachment to such vehicle designed to transport by pedaling when the vehicle is used on a public roadway, public bicycle path or other public right-of-way, but does not include a tricycle.

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

(c) “Public roadway” means a right-of-way under the jurisdiction and control of this town for use primarily by motor vehicles.

(d) “Public bicycle path” means a right-of-way under the jurisdiction and control of this town for use primarily by bicycles and pedestrians.

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

(f) “Protective bicycle helmet” means a piece of headgear which meets or exceeds the impact standards for protective bicycle helmets set by the American National Standards

Institute (ANSI) or the Snell Memorial Foundation’s Standards for protective headgear or American Society for Testing and Materials (ASTM) for use in bicycling.

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

(h) “Operator” means a person who travels on a bicycle seated on a saddle seat from which that person is intended to and can pedal the bicycle.

(Ref. W.Va. Code § 17C-11A-3)

§ 12C-1104A. Requirements for helmet use.

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

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

(Ref. W.Va. Code § 17C-11A-4)

§ 12C-1105A. Sale of bicycle helmets.

Any helmet sold or offered for sale for use by operators and passengers of bicycles shall be conspicuously labeled in accordance with the standard described in § 12C-1103(f) of this chapter, which shall constitute the manufacturer’s certification that the helmet conforms to the applicable safety standards.

(Ref. W.Va. Code § 17C-11A-5)

§ 12C-1106A. Civil actions.

A violation of § 12C-1104A of this chapter is not admissible as evidence of negligence or contributory negligence or comparative negligence in any civil action or proceeding for damages, and shall not be admissible in mitigation of damages.

(Ref. W.Va. Code § 17C-11A-6)

§ 12C-1107A. Penalties.

(a) Notwithstanding the provisions of § 12C-1801 of this title, any parent or legal guardian violating any requirement set forth in § 12C-1104A of this chapter shall be fined ten dollars or be required to perform two hours in community service related to a child injury prevention program which includes injury prevention education or both fined and required to perform such community service. Notwithstanding the provisions of § 8-11-1 of the West Virginia Code, no court costs may be assessed to any person violating the requirements of § 12C-1104A of this chapter.

(b) In the case of a first violation of section four of this article, the court may waive the fine upon receipt of satisfactory proof that the person has a helmet or within a reasonable time from the date of the violation, purchased or otherwise obtained, a protective bicycle helmet.

(c) It is an absolute defense to a charge for a violation of this article that a parent or legal guardian is unable to pay for the protective bicycle helmet. Inability to pay may be demonstrated by the filing of a financial affidavit in accordance with the provisions of § 59-2-1(c) of the West Virginia Code. Any person who demonstrates inability to pay shall be referred to the governor's highway safety program for assistance in obtaining the appropriate helmet or helmets.

(Ref. W.Va. Code § 17C-11A-7)

§ 12C-1108A. Ordinance.

Shepherdstown enacts this chapter on the use of bicycle helmets pursuant to § 17C-11A-8 of the West Virginia Code.

(Ref. W.Va. Code § 17C-11A-8)

CHAPTER 12
SPECIAL STOPS REQUIRED

§ 12C-1201. Obedience to signal indicating approach of train.

(a) 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 fifty feet but not less than fifteen feet from the nearest rail of such railroad and shall not proceed until he can do so safely. The foregoing requirements shall apply when:

1. A clearly visible electric or mechanical signal device gives warning of the immediate approach of a railroad train;
- a 2. A crossing gate is lowered or when a human flagman gives or continues to give signal of the approach or passage of a railroad train;
3. A railroad train approaching within approximately one thousand five hundred 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;
4. Any approaching railroad train is plainly visible and is in hazardous proximity to such crossing.

(b) 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.

(c) Any person failing to comply with the requirements of this section is guilty of a misdemeanor, and, upon conviction thereof, shall be fined one hundred dollars. The commissioner shall promulgate rules to further penalize those convicted of violating this section by levying three points against the violator's driver's license record: Provided, That if the electric or mechanical signal device is malfunctioning, this subsection shall not apply.

(Formerly § 12-331; Ref. W.Va. Code § 17C-12-1)

§ 12C-1202. All vehicles must stop at certain railroad grade crossings.

The Corporation of Shepherdstown with the approval of the West Virginia commissioner of highways is hereby authorized to designate particularly dangerous highway grade crossings of railroads and to erect stop signs thereat. When such stop signs are erected the driver of any vehicle shall stop within fifty feet but not less than fifteen feet from the nearest rail of such railroad and shall proceed only upon exercising due care.

(Ref. W.Va. Code § 17C-12-2)

§ 12C-1203. Certain vehicles must stop at all railroad grade crossings.

(a) Except as provided in subsection (f) of this section, the driver of a commercial motor vehicle specified in subsection (b) of this section shall not cross a railroad track or tracks at grade

unless he or she first: (1) Stops the commercial motor vehicle within fifty feet of, and not closer than fifteen feet to, the tracks; (2) thereafter, listens and looks in each direction along the tracks for an approaching train; and (3) ascertains that no train is approaching. When it is safe to do so, the driver may drive the commercial motor vehicle across the tracks in a gear that permits the commercial motor vehicle to complete the crossing without a change of gears. The driver shall not shift gears while crossing the tracks.

(b) The following commercial vehicles are required to stop at railroad tracks or tracks at grade:

1. Every bus transporting passengers;
2. Every commercial motor vehicle transporting any quantity of a United States department of transportation defined division 2.3 chlorine;
3. Every commercial motor vehicle which, in accordance with United States department of transportation regulations, is marked or placarded and is required to stop in accordance with 49 C.F.R. part §§ 392.10(a) (3) (2001), as amended;
4. Every cargo tank motor vehicle, loaded or empty, used for the transportation of any hazardous material, as defined in federal department of transportation hazardous materials rules, 49 C.F.R. parts §§ 107 through §§ 180 (2001), as amended;
5. Every cargo tank motor vehicle transporting a commodity which, at the time of loading, has a temperature above its flashpoint as determined by 49 C.F.R. §§ 173.120 (2001), as amended; and
6. Every cargo tank motor vehicle, whether loaded or empty, transporting any commodity exemption in accordance with 49 C.F.R. part §§ 107 subpart B (2001), as amended.

(c) Any vehicle owned by an employer which, in carrying on the employer's business or in carrying employees to and from work, carries more than six employees of the employer is required to stop at all railroad tracks or tracks at grade, in accordance with subsection (a) of this section.

(d) All drivers of commercial motor vehicles not required to stop at railroad tracks or tracks at grade as provided in subsection (a) of this section may not cross a railroad track or tracks at grade unless he or she first slows the commercial motor vehicle to a speed which will permit the commercial motor vehicle to be stopped before reaching the nearest rail of the railroad crossing and permit exercise of due caution to ascertain that the tracks are clear of an approaching train.

(e) All drivers of commercial motor vehicles may not proceed to cross a railroad crossing unless there is sufficient space to drive completely through the crossing without stopping and the

vehicle has sufficient undercarriage clearance to drive completely through the crossing without stopping.

(f) No stop need be made at:

1. Any crossing where a police officer, crossing flagger or a traffic-control signal directs traffic to proceed;
2. Railroad tracks used exclusively for industrial switching purposes within a business district, as defined in 49 C.F.R. §§ 390.5 (2000), as amended;
3. A railroad grade crossing controlled by a functioning highway traffic signal transmitting a green indication which, under local law permits the commercial motor vehicle to proceed across the track without slowing or stopping; or
4. A railroad grade crossing which is marked with a sign indicating that the rail line is out of service.

(g) Any person driving a vehicle specified in this section or a vehicle that requires a commercial driver's license who fails to comply with the requirements of this section is guilty of a misdemeanor and, upon conviction thereof, shall be fined one hundred dollars: Provided, That if the electric or mechanical signal device is malfunctioning, this subsection shall not apply.

(Formerly § 12-332; Ref. W.Va. Code § 17C-12-3)

§ 12C-1204. Moving heavy equipment at railroad grade crossings.

(a) No person shall operate or move any crawler-type tractor, steam shovel, derrick, roller, or any equipment or structure having a normal operating speed of ten or less miles per hour or a vertical body or load clearance of less than one-half inch per foot of the distance between any two adjacent axles or in any event of less than nine inches, measured above the level surface of a roadway, upon or across any tracks at a railroad grade crossing without first complying with this section.

(b) Notice of any such intended crossing shall be given to a station agent of such railroad and a reasonable time be given to such railroad to provide proper protection at such crossing.

(c) Before making any such crossing the person operating or moving any such vehicle or equipment shall first stop the same not less than fifteen feet nor more than fifty 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, and shall not proceed until the crossing can be made safely.

(d) No such crossing shall be made when warning is given by automatic signal or crossing gates or a flagman or otherwise of the immediate approach of a railroad train or car. If a flagman is provided by the railroad, movement over the crossing shall be under his direction.

(Formerly § 12-333; Ref. W.Va. Code § 17C-12-4)

§ 12C-1205. Vehicles must stop at through highways; erection of signs.

(a) The West Virginia commissioner of highways with reference to state highways and local authorities with reference to other highways under their jurisdiction may designate through highways and erect stop signs at specified entrances thereto or may designate any intersection as a stop intersection and erect like signs at one or more entrances to such intersection.

(b) Every said sign shall bear the word "Stop" in letters not less than six inches in height and such sign shall at nighttime be rendered luminous by steady or flashing internal illumination, or by a fixed floodlight projected on the face of the sign, or by efficient reflecting elements on the face of the sign.

(c) Every stop sign shall be erected as near as practicable to the nearest line of the crosswalk on the near side of the roadway.

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

(Formerly § 12-334; Ref. W.Va. Code § 17C-12-5)

§ 12C-1206. Stopping before emerging from alley or private driveway; penalty.

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

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

(Formerly § 12-335; Ref. W.Va. Code § 17C-12-6)

§ 12C-1207. Overtaking and passing school bus; penalties; signs and warning lights upon buses; removal of warning lights, lettering, etc., upon sale of buses; highways with separate roadways.

(a) The driver of a vehicle upon meeting or overtaking from either direction any school bus which has stopped for the purpose of receiving or discharging any school children shall stop the vehicle before reaching such school bus when there is in operation on said school bus flashing warning signal lights, as referred to in § 12C-1208 of this chapter, and said driver shall not proceed until such school bus resumes motion, or is signaled by the school bus driver to proceed or the visual signals are no longer actuated. This section applies wherever the school bus is receiving or discharging children, including, but not limited to, any street, highway, parking lot, private road or driveway: Provided, That the driver of a vehicle upon a controlled access highway need not stop upon meeting or passing a school bus which is on a different roadway or adjacent to such highway and where pedestrians are not permitted to cross the roadway. Any such driver acting in violation of this subsection is guilty of a misdemeanor, and, upon

conviction thereof, shall be fined not less than fifty nor more than two hundred dollars. If the identity of the driver cannot be ascertained, then any such owner or lessee of the vehicle in violation of this subsection is guilty of a misdemeanor, and, upon conviction thereof, shall be fined not less than twenty-five nor more than one hundred dollars: Provided, however, That such conviction shall not subject such owner or lessee to further administrative or other penalties for said offense, notwithstanding other provisions of this code to the contrary.

(b) Every bus used for the transportation of school children shall bear upon the front and rear thereof a plainly visible sign containing the words "school bus" in letters not less than eight inches in height. When a contract school bus is being operated upon a highway for purposes other than the actual transportation of children either to or from school, all markings thereon indicating "school bus" shall be covered or concealed. Any school bus sold or transferred to another owner by a county board of education, agency or individual shall have all flashing warning lights disconnected and all lettering removed or permanently obscured, except when sold or transferred for the transportation of school children.

(Formerly § 12-336; Ref. W.Va. Code § 17C-12-7)

§ 12C-1207a. Signs and warning lights or alternative warning devices upon passenger vans; passing passenger vans; criminal penalties.

(a) Every passenger van used for the transportation of children, as defined in § 12C-164 of this title shall bear upon the front and rear thereof a plainly visible sign containing the warning "Caution: Loading and Unloading Passengers" in letters not less than six inches in height. Every such passenger van shall be equipped with either flashing warning signal lights as are contemplated and referred to in § 12C-1208 of this chapter, or a red caution flag which the driver or some other adult must use by exiting the passenger van and displaying while assisting in the loading or unloading of passengers. Such vehicles may also be equipped with a white flashing strobotron warning light that meets the requirements set forth in § 12C-1526(e) of this title.

(b) The driver of a vehicle upon meeting or overtaking from any direction any passenger van which has stopped for the purpose of loading or unloading passengers shall stop his or her vehicle before reaching the passenger van when there is in operation on the passenger van flashing warning signal lights or when an adult is outside the passenger van with a red caution flag and assisting with the loading or unloading of passengers. The driver of a vehicle may not proceed until he or she is signaled by the passenger van driver to proceed, the passenger van flashing signal lights are no longer actuated, or the passenger van resumes motion. This section applies wherever the passenger van is loading or unloading children on any street, highway, parking lot, private road or driveway: Provided, That the driver of a vehicle upon a controlled access highway need not stop upon meeting or passing a passenger van which is on a different roadway or adjacent to the highway and where pedestrians are not permitted to cross the roadway. Any driver acting in violation of this subsection is guilty of a misdemeanor and, upon conviction thereof, shall be fined not less than fifty nor more than two hundred dollars. If the identity of the driver cannot be ascertained, then any owner or lessee of the vehicle in violation of this subsection is guilty of a misdemeanor and, upon conviction thereof, shall be fined not less than twenty-five nor more than one hundred dollars: Provided, however, That the conviction may not subject the owner or lessee to further administrative or other penalties for the offense, notwithstanding other provisions of this code to the contrary.

(Ref. W.Va. Code § 17C-12-7a)

§ 12C-1208. Special lighting equipment on school buses.

(a) Lighting equipment on and special warning devices to be carried by school buses shall comply with the standards and specifications applicable thereto adopted by the commissioner of motor vehicles pursuant to § 17C-12-8 of the West Virginia Code.

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

(Ref. W.Va. Code § 17C-12-8)

§ 12C-1209. School bus drivers may present complaint directly to magistrate.

Notwithstanding any other provision of this code to the contrary, a person authorized by law to operate a school bus, as that term is defined in § 12C-107 of this title, may submit a complaint directly to a magistrate without first presenting the complaint to the prosecuting attorney or Shepherdstown Police Department, if the complaint is based upon a violation of § 12C-1207(a) of this chapter.

The complaint shall be in the form of a written statement of the essential facts constituting the offense charged. The complaint shall be presented to and sworn before a magistrate where the offense is alleged to have occurred.

If it appears from the complaint, or from an affidavit or affidavits filed with the complaint, that there is probable cause to believe that an offense has been committed and that the defendant committed it, a warrant for the arrest of the defendant shall be issued to any officer authorized by law to arrest persons charged with offenses against the Corporation of Shepherdstown.

(Ref. W.Va. Code § 17C-12-9)

CHAPTER 13
STOPPING, STANDING, AND PARKING.

§ 12C-1301. Stopping, standing, or parking outside of business or residence districts; penalty.

(a) Upon any highway outside of a business or residence district no person shall stop, park, or leave standing any vehicle, whether attended or unattended, upon the paved or main-traveled part of the highway when it is practicable to stop, park, or so leave such vehicle off such part of said highway, but in every event an unobstructed width of the highway opposite a standing vehicle shall be left for the free passage of other vehicles and a clear view of such stopped vehicles shall be available from a distance of two hundred feet in each direction upon such highway.

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

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

(Formerly § 12-337; Ref. W.Va. Code § 17C-13-1)

§ 12C-1302. Officers authorized to remove illegally stopped vehicles.

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

(b) Whenever any police officer finds a vehicle unattended upon any bridge or causeway or in any tunnel where such vehicle constitutes an obstruction to traffic, such officer is hereby authorized to provide for the removal of such vehicle to the nearest garage or other place of safety.
(Formerly § 12-338; Ref. W.Va. Code § 17C-13-2)

§ 12C-1303. Stopping, standing, or parking prohibited in specified places; penalty.

(a) No person shall stop, stand or park a vehicle, except when necessary to avoid conflict with other traffic or in compliance with law or the directions of a police officer or traffic-control device, in any of the following places:

- (1) On a sidewalk;
- (2) In front of a public or private driveway;
- (3) Within an intersection;

- fire lane;
- (4) Within fifteen feet of a fire hydrant;
- (5) In a properly designated
- (6) On a crosswalk;
- (7) Within twenty feet of a crosswalk at an intersection;
- traffic-
- (8) Within thirty feet upon the approach to any flashing beacon, stop sign or control signal located at the side of a roadway;
- the
- (9) Between a safety zone and the adjacent curb or within thirty feet of points on curb immediately opposite the ends of a safety zone, unless a different length is indicated by signs or markings;
- (10) Within fifty feet of the nearest rail of a railroad crossing;
- side
- (11) Within twenty feet of the driveway entrance to any fire station and on the of a street opposite the entrance to any fire station within seventy-five feet of the entrance (when properly signposted);
- (12) Alongside or opposite any street excavation or obstruction when stopping, standing or parking would obstruct traffic;
- (13) On the roadway side of any vehicle stopped or parked at the edge or curb of a street;
- (14) On any bridge or other elevated structure on a highway or within a highway tunnel;
- (15) At any place where official signs prohibit stopping;
- a
- (16) Within twenty feet of any mail receptacle served regularly by a carrier using motor vehicle for daily deliveries, if the parking interferes with or causes delay in carrier's schedule;
- the
- (17) On any controlled-access highway;
- traveling
- (18) At any place on any highway where the safety and convenience of the public is thereby endangered;
- marked
- (19) In front of a wheelchair accessible ramp or curb cut which is part of a sidewalk designed for use by the general public when the ramp or curb cut is properly with blue paint.
- (20) On any street or portion thereof designated by the Town Council or the Police Department for residential only parking without a valid parking permit or pass;

(21) (21) Longer than permitted within any time limited, unmetered parking space, as designated by the Town Council or Police Department, without a valid parking permit or pass.

(22) In any place marked as a loading zone during the hours when the provisions applicable to such zone are in effect, except for the expeditious unloading and delivering or pickup and loading of materials. In no case shall the stop for loading and unloading of materials exceed thirty minutes.

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

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

(Formerly § 12-339; Ref. W.Va. Code § 17C-13-3)

§ 12C-1304. Right and left parallel parking; angle parking; highway signs restricting parking, etc; penalty.

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

(b) Except as otherwise provided in this section, every vehicle stopped or parked upon a one-way roadway where there are adjacent curbs shall be so stopped or parked with the left-hand wheels adjacent to and within eighteen inches of the left-hand curb.

(c) Every vehicle stopped or parked upon a roadway shall not stand backed up at an angle to the curb or edge of the roadway except while actually loading or unloading.

(d) The Corporation of Shepherdstown with respect to highways under its jurisdiction may place signs prohibiting or restricting the stopping, standing, or parking of vehicles on any street or highway where in its opinion, as evidenced by resolution or order entered in its minutes, such stopping, standing, or parking is dangerous to those using the highway or where the stopping, standing, or parking of vehicles would unduly interfere with the free movement of traffic thereon. Such signs shall be official signs and no person shall stop, stand, or park any vehicle in violation of the restrictions stated on such signs. Any person violating the provisions of this subsection is guilty of a misdemeanor and, upon conviction thereof, shall be fined not more than one hundred dollars; upon a second conviction within one year thereafter, shall be fined not more than two hundred dollars; and upon a third or subsequent conviction, shall be fined not more than five hundred dollars.

(Formerly § 12-340; Ref. W.Va. Code § 17C-13-4)

§ 12C-1305. Removal of vehicles parked, etc., on controlled-access highway; liability for costs of removal and storage; liens for towing and storage.

Whenever a vehicle has been stopped, parked or left standing upon any part of a controlled-access highway any police officer shall have the authority to remove or order the removal of the vehicle, by towing or otherwise, to the nearest available established garage or parking lot for storage until called for by the owner or his agent. The owner shall be liable for the reasonable cost of such removal and storage, and until payment of such cost the garage or parking lot operator may retain possession of the vehicle subject to a lien for the amount due.

The garage or parking lot operator may enforce his lien for towing and storage in the manner provided in § 38-11-14 of the West Virginia Code for the enforcement of other liens.

(Formerly § 12-343; Ref. W.Va. Code § 17C-13-5)

§ 12C-1306. Stopping, standing or parking privileges for persons with a mobility impairment; definitions; violation; penalties.

(a) (1) The following persons may apply to the commissioner of motor vehicles for special registration plates or removable windshield placards:

(A) A person with a mobility impairment;

(B) A relative of a person with a mobility impairment;

(C) A person who regularly resides with a person with a mobility impairment;

(D) A person who regularly transports a person who has a mobility impairment; or

(E) A West Virginia organization which transports persons with disabilities and facilitates the mobility of its customers, patients, students or persons otherwise placed under its responsibility.

(b) As used in this section, the following terms have the meanings ascribed to them in this subsection:

(1) A person or applicant with a “mobility impairment” means a person who is a citizen of West Virginia and as determined by a physician, allopath or osteopath licensed to practice in West Virginia:

(A) Cannot walk two hundred feet without stopping to rest;

(B) Cannot walk without the use of or assistance from a brace, cane, crutch, prosthetic device, wheelchair, other assistive device or another person;

(C) Is restricted by lung disease to such an extent that the person’s force (respiratory) expiratory volume for one second, when measured by spirometry, is less than one liter or the arterial oxygen tension is less than sixty mm/hg on room air at rest;

(D) Uses portable oxygen;

(E) Has a cardiac condition to such an extent that the person’s functional limitations are classified in severity as Class III or Class IV according to standards established by the American Heart Association; or

(F) Is severely limited in his or her ability to walk because of an arthritic, neurological or other orthopedic condition;

(2) “Special registration plate” means a registration plate that displays the international symbol of access in a color that contrasts with the background, in letters and numbers the same size as those on the plate, and which may be used in lieu of a regular registration plate;

(3) “Removable windshield placard” (permanent or temporary) means a two-sided, hanger-style placard measuring three inches by nine and one-half inches, with all of the following on each side:

(A) The international symbol of access, measuring at least three inches in height, centered on the placard, in white on a blue background for permanent designations and in white on a red background for temporary designations;

(B) An identification number measuring one inch in height;

(C) An expiration date in numbers measuring one inch in height; and

(D) The seal or other identifying symbol of the issuing authority;

The placard shall be displayed by hanging it from the interior rearview mirror of the motor vehicle so that it is conspicuously visible from outside the vehicle when parked in a designated accessible parking space. The placard may be removed from the rearview mirror whenever the vehicle is being operated to ensure clear vision and safe driving. Only in the event that there is no suitable rearview mirror in the vehicle may the placard be displayed on the dashboard of the vehicle.

(4) “Public entity” means state or local government or any department, agency, special purpose district or other instrumentality of a state or local government;

(5) “Public facility” means all or any part of any buildings, structures, sites, complexes, roads, parking lots or other real or personal property, including the site where the facility is located;

(6) “Place or places of public accommodation” means a facility or facilities operated by a private entity whose operations affect commerce and fall within at least one of the following categories:

(A) Inns, hotels, motels and other places of lodging;

(B) Restaurants, bars or other establishments serving food or drink;

(C) Motion picture houses, theaters, concert halls, stadiums or other places of exhibition or entertainment;

(D) Auditoriums, convention centers, lecture halls or other places of public

gatherings;

(E) Bakeries, grocery stores, clothing stores, hardware stores, shopping centers or other sales or rental establishments;

(F) Laundromats, dry cleaners, banks, barber and beauty shops, travel agencies, shoe repair shops, funeral parlors, gas or service stations, offices of accountants and attorneys, pharmacies, insurance offices, offices of professional health care providers, hospitals or other service establishments;

(G) Terminals, depots or other stations used for public transportation;

(H) Museums, libraries, galleries or other places of public display or collection;

(I) Parks, zoos, amusement parks or other places of recreation;

(J) Public or private nursery, elementary, secondary, undergraduate or post-graduate schools or other places of learning and day care centers, senior citizen centers, homeless shelters, food banks, adoption agencies or other social services establishments; and

(K) Gymnasiums, health spas, bowling alleys, golf courses or other places of exercise or recreation.

(7) “Commercial facility” means a facility whose operations affect commerce and which are intended for nonresidential use by a private entity.

(8) “Accessible parking” formerly known as “handicapped parking” is the present phrase consistent with language within the Americans with Disabilities Act (ADA).

Any person who falsely or fraudulently obtains or seeks to obtain the special plate or the removable windshield placard provided for in this section and any person who falsely certifies that a person is mobility impaired in order that an applicant may be issued the special registration plate or windshield placard under this section is guilty of a misdemeanor and, upon conviction thereof, in addition to any other penalty he or she may otherwise incur, shall be fined five hundred dollars. Any person who fabricates, uses or sells unofficially issued windshield placards to any person or organization is committing a fraudulent act and is guilty of a misdemeanor and, upon conviction thereof, in addition to any other penalty he or she may otherwise incur, shall be fined five hundred dollars per placard fabricated, used or sold. Any person who fabricates, uses or sells unofficially issued identification cards to any person or organization is committing a fraudulent act and is guilty of a misdemeanor and, upon conviction thereof, in addition to any other penalty he or she may otherwise incur, shall be fined seven hundred dollars per identification card fabricated, used or sold. Any person who fabricates, uses or sells unofficially issued labels imprinted with a future expiration date to any person or organization is committing a fraudulent act and is guilty of a misdemeanor and, upon conviction thereof, in addition to any other penalty he or she may otherwise incur, shall be fined seven hundred dollars. Any person covered by this section who sells or gives away their officially issued windshield placard to any

person or organization not qualified to apply or receive the placard and then reapplies for a new placard on the basis it was stolen is committing a fraudulent act and is guilty of a misdemeanor and, upon conviction thereof, in addition to any other penalty he, she or they may otherwise incur, shall lose their right to receive or use a special placard or special license plate for a period of not less than five years.

(c) An accessible parking space should comply with the provisions of the Americans with Disabilities Act accessibility guidelines, contained in 28 C.F.R. 36, Appendix A, Section 4.6. In particular, the parking space should be a minimum of eight feet wide with an adjacent eight-foot access aisle for vans having side mounted hydraulic lifts or ramps or a five-foot access aisle for standard vehicles. Access aisles should be marked using diagonal two- to four-inch-wide stripes spaced every twelve or twenty-four inches apart or other appropriate markings denoting that the space is a no-parking zone. All accessible parking spaces should have a signpost in front or adjacent to the accessible parking space displaying the international symbol of access sign mounted at a minimum of eight feet above the pavement or sidewalk and the top of the sign. Lines or markings on the pavement or curbs for parking spaces and access aisles may be in any color, although blue is the generally accepted color for accessible parking.

(d) A vehicle from any other state, United States territory or foreign country displaying an officially issued special registration plate, placard or decal bearing the international symbol of access shall be recognized and accepted as meeting the requirements of this section, regardless of where the plate, placard or decal is mounted or displayed on the vehicle.

(e) Free stopping, standing or parking places marked with the international symbol of access shall be designated in close proximity to all public entities, including state, county and municipal buildings and facilities, places of public accommodation and commercial facilities. These parking places shall be reserved solely for persons with a mobility impairment at all times.

(f) Any person whose vehicle properly displays a valid, unexpired special registration plate or removable windshield placard 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.

The parking privileges provided for in this subsection apply only during those times when the vehicle is being used for the loading or unloading of a person with a mobility impairment. Any person who knowingly exercises, or attempts to exercise, these privileges at a time when the vehicle is not being used for the loading or unloading of a person with a mobility impairment is guilty of a misdemeanor and, upon first conviction thereof, in addition to any other penalty he or she may otherwise incur, shall be fined one hundred dollars; upon second conviction thereof, in addition to any other penalty he or she may otherwise incur, shall be fined three hundred dollars; and upon third and subsequent convictions thereof, in addition to any other penalty he or she may otherwise incur, shall be fined five hundred dollars.

(g) Any person whose vehicle does not display a valid, special registration plate or removable windshield placard may not stop, stand or park a motor vehicle in an area designated, zoned or marked for accessible parking with signs or instructions displaying the international symbol of access, either by itself or with explanatory text. The signs may be mounted on a post or a wall in front of the accessible parking space and instructions may appear on the ground or pavement, but use of both methods is preferred. Accessible parking spaces for vans having an eight-foot adjacent access aisle should be designated as “van accessible” but may be used by any vehicle displaying a valid special registration plate or removable windshield placard. These spaces are intended solely for persons with a mobility impairment, as defined in this section: Provided, That any person in the act of transporting a person with a mobility impairment as defined in this section, may stop, stand or park a motor vehicle not displaying a special registration plate or removable windshield placard in the area designated for accessible parking by the international symbol of access for the limited purposes of loading or unloading a passenger with a mobility impairment: Provided, however, That the vehicle shall be promptly moved after the completion of this limited purpose.

Any person who violates the provisions of this subsection is guilty of a misdemeanor and, upon conviction thereof, shall be fined one hundred dollars; upon second conviction thereof, in addition to any other penalty he or she may otherwise incur, shall be fined three hundred dollars; and upon third and subsequent convictions thereof, in addition to any other penalty he or she may otherwise incur, shall be fined five hundred dollars.

(h) All signs that designate areas as “accessible parking” or that display the international symbol of access shall also include the words “Up to \$ 500 fine”.

(i) No person may stop, stand or park a motor vehicle in an area designated or marked off as an access aisle adjacent to a van-accessible parking space or regular accessible parking space. Any person, including a driver of a vehicle displaying a valid removable windshield placard or special registration plate, who violates the provisions of this subsection is guilty of a misdemeanor and, upon conviction thereof, shall be fined one hundred dollars; upon second conviction thereof, in addition to any other penalty he or she may otherwise incur, shall be fined three hundred dollars; and upon third and subsequent convictions thereof, in addition to any other penalty he or she may otherwise incur, shall be fined five hundred dollars.

(j) The Shepherdstown Police Department may issue citations for violations of this section and shall reference the number on the vehicle’s license plate, since the driver normally will not be present.

(k) The Corporation of Shepherdstown shall retain all fines and associated late fees resulting from a violation of this section. These revenues shall go into the town’s general revenue fund.

(Ref. W.Va. Code § 17C-13-6)

§ 12C-1307. Signs on workers’ and church buses; when lawful for such buses to stop on highways and streets.

Any bus used primarily for the transportation of workers only and any bus operated by a church may bear upon the front and rear thereof a plainly visible sign, either painted or affixed on the body of the bus proper, or attached securely to the bus, containing the words “workers’ bus” or “church bus,” respectively, in letters not less than eight inches in height. Any bus used primarily for the transportation of workers only and any bus operated by a church and bearing signs in that manner may lawfully stop upon the paved portion of any highway or street where there is no loading zone or pull-off adjacent to the highway or street to load or discharge persons: Provided, That such bus shall be equipped with warning lamps permitted under § 12C-1519(d) of this title, and shall use such warning lamps when stopped on the highway or decreasing speed in order to stop, in order to warn the operators of other vehicles of a possible traffic hazard.

(Ref. W.Va. Code § 17C-13-7)

§ 12C-1308. Reserved.

(Ref. W.Va. Code § 17C-13-8)

CHAPTER 14
MISCELLANEOUS RULES.

§ 12C-1401. Unattended motor vehicle; penalty.

(a) No person driving or in charge of a motor vehicle shall permit it to stand unattended without first stopping the engine, locking the ignition, removing the key, and effectively setting the brake thereon and, when standing upon any grade, turning the front wheels to the curb or side of the highway.

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

(Formerly § 12-344; Ref. W.Va. Code § 17C-14-1)

§ 12C-1402. Limitations on backing; penalty.

(a) The driver of a vehicle shall not back the same unless such movement can be made with reasonable safety and without interfering with other traffic.

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

(Formerly § 12-345; Ref. W.Va. Code § 17C-14-2)

§ 12C-1403. Reserved.

§ 12C-1404. Obstructions to driver's view or driving mechanism; penalty.

(a) No person shall drive a vehicle when it is so loaded as to obstruct the view of the driver to the front or sides of the vehicle or as to interfere with the driver's control over the driving mechanism of the vehicle.

(b) No passenger in a vehicle shall ride in such position as to interfere with the driver's or operator's view ahead or to the sides, or to interfere with his or her control over the driving mechanism of the vehicle.

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

(Formerly § 12-346; Ref. W.Va. Code § 17C-14-4)

§ 12C-1405. Passengers in seat with operator; penalty.

(a) No more than three persons including the operator shall ride or be permitted by such operator to ride in the seat with the operator of any motor vehicle while said motor vehicle is being operated on the streets or highways of this town: Provided, That the limitation of this section shall not apply to a truck cab or truck crew compartment properly designed for the

occupancy of four persons including the operator, and so designated on the registration card by the division of motor vehicles.

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

(Formerly § 12-347; Ref. W.Va. Code § 17C-14-5)

§ 12C-1406. Passengers on running board; penalty.

(a) No passenger shall ride nor shall the operator permit any passenger to ride on the running boards of any motor vehicle while such vehicle is being operated on the streets or highways of this town.

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

(Formerly § 12-348; Ref. W.Va. Code § 17C-14-6)

§ 12C-1407. Reserved.

§ 12C-1408. Coasting prohibited; penalty.

(a) The driver of any motor vehicle when traveling upon a down grade shall not coast with the gears of such vehicle in neutral.

(b) The driver of a commercial motor vehicle when traveling upon a down grade shall not coast with the clutch disengaged.

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

(Formerly § 12-349; Ref. W.Va. Code § 17C-14-8)

§ 12C-1409. Following authorized emergency vehicles; penalty.

(a) The driver of any vehicle other than one on official business may not follow any authorized emergency vehicle traveling in response to a fire alarm or other emergency closer than five hundred feet or drive into or park such vehicle within the block where such authorized emergency vehicle has stopped in answer to a fire alarm or other emergency.

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

(Formerly § 12-350; Ref. W.Va. Code § 17C-14-9)

§ 12C-1409a. Approaching authorized emergency vehicles; penalties.

(a) The driver of any vehicle approaching a stationary authorized emergency vehicle, when the authorized emergency vehicle is giving a signal by displaying alternately flashing red, red and white, blue, or red and blue lights or amber or yellow warning lights, shall:

1. Proceed with due caution, yield the right-of-way by making a lane change not adjacent to that of the authorized emergency vehicle, if possible with regard to safety and traffic conditions, if on a highway having at least four lanes with not less than two lanes proceeding in the same direction as the approaching vehicle and reduce speed to a safe level for road conditions; or

2. Proceed with due caution, reduce the speed of the vehicle, maintaining a safe speed not to exceed fifteen miles per hour on any nondivided highway or street and twenty-five miles per hour on any divided highway depending on road conditions, if changing lanes would be impossible or unsafe.

(b) 1. Any person who violates the provisions of this section is guilty of a misdemeanor and, upon conviction thereof, shall be fined not more than five hundred dollars.

2. Any person who violates any provision of this section and while doing so also violates § 12C-502 of this title is guilty of a misdemeanor and, upon conviction thereof, shall, in addition to the penalties set out in section two of said chapter and this section, be fined not less than one thousand dollars nor more than five thousand dollars.

(Ref. W.Va. Code § 17C-14-9a)

§ 12C-1410. Crossing fire hose; penalty.

(a) No vehicle shall be driven over any unprotected hose of a fire department when laid down on any street, or private driveway, to be used at any fire or alarm of fire, without the consent of the fire department official in command.

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

(Formerly § 12-351; Ref. W.Va. Code § 17C-14-10)

§ 12C-1411. Putting glass, etc., on highway.

(a) No person shall throw or deposit upon any highway any glass bottle, glass, nails, tacks, wire, cans, or any other substance likely to injure any person, animal, or vehicle upon such highway.

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

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

(Formerly § 12-352; Ref. W.Va. Code § 17C-14-11)

§ 12C-1412. Reserved.

§ 12C-1413. Vehicles parked on private property; penalty.

(a) It shall be unlawful for any driver of a vehicle to stop, park or leave standing unattended any vehicle on a private road or driveway or on private property without having express or implied permission from the owner, tenant or lessee of such land.

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

(c) The owner, tenant or lessee of such private road or driveway or private property may move, or have moved, any vehicle stopped, parked or left standing unattended on his or her private road, driveway, or private property as above prohibited without any liability for the cost of moving any vehicle, nor shall he or she be liable to the owner of the vehicle for any damage done to such vehicle in moving it, unless the owner, tenant or lessee of such private road or driveway or private property was negligent in removing or authorizing the removal of the vehicle. The owner of such vehicle shall be responsible to the persons removing such vehicle for paying all removal costs. Any person who removes any vehicle under the provisions of this section shall notify the West Virginia state police of such action, and shall in addition notify the Shepherdstown Police Department.

(Formerly § 12-353; Ref. W.Va. Code § 17C-14-13)

§ 12C-1413a. Police officers authorized to conduct investigations on private property.

Notwithstanding any provision of law to the contrary, nothing may prohibit any duly authorized Shepherdstown police officers from entering upon private lands in order to investigate a motor vehicle accident when said private lands are open to the use of the public at-large for any purpose.

(Ref. W.Va. Code § 17C-14-13a)

§ 12C-1414. Unlawful to litter from motor vehicle; penalty; rule making.

(a) It is unlawful for any driver or passenger of a motor vehicle or other conveyance to place, deposit, dump, throw or cause to be placed, deposited, dumped or thrown, any litter from a motor vehicle or other conveyance in or upon any public or private highway, road, street or alley; any private property; any public property; or the waters of the town or within one hundred feet of the waters of this town, except in a proper litter or other solid waste receptacle.

(b) For purposes of this section, “litter” means all waste material including, but not limited to, any garbage, refuse, trash, disposable package, container, can, bottle, paper, ashes, cigarette or cigar butt, carcass of any dead animal or any part thereof, or any other offensive or unsightly matter, but not including the wastes of primary processes of mining, logging, sawmilling, farming or manufacturing.

(c) 1. Any person who violates the provisions of this section by placing, depositing, dumping or throwing or causing to be placed, deposited, dumped or thrown any litter, not collected for commercial purposes, in an amount not exceeding one hundred pounds in weight or twenty-seven cubic feet in size, is guilty of a misdemeanor. Upon conviction, he or she is subject to a fine of not less than fifty dollars nor more than one thousand dollars, or in the discretion of the court, sentenced to perform community service by cleaning up litter from any public highway, road, street, alley or any other public park or public property, or waters of the state, as designated by the court, for not less than eight nor more than sixteen hours, or both.

2. Any person who violates the provisions of this section by placing, depositing, dumping or throwing or causing to be placed, deposited, dumped or thrown any litter, not collected for commercial purposes, in an amount greater than one hundred pounds in weight or twenty-seven cubic feet in size, but less than five hundred pounds in weight or two hundred sixteen cubic feet in size is guilty of a misdemeanor. Upon conviction he or she is subject to a fine of not less than five hundred dollars nor more than two thousand dollars, or in the discretion of the court, may be sentenced to perform community service by cleaning up litter from any public highway, road, street, alley or any other public park or public property, or waters of the state, as designated by the court, for not less than sixteen nor more than thirty-two hours, or both.

3. Any person who violates the provisions of the section by placing, depositing, dumping or throwing or causing to be placed, deposited, dumped or thrown any litter in an amount greater than five hundred pounds in weight or two hundred sixteen cubic feet in size or any amount which had been collected for commercial purposes, is guilty of a misdemeanor. Upon conviction the person is subject to a fine not less than twenty-five hundred dollars or not more than twenty-five thousand dollars, or confinement in a county or regional jail for not more than thirty (30) days or both. In addition, the violator may be guilty of creating or contributing to an open dump as defined in § 22-15-2 of the West Virginia Code and subject to the enforcement provisions of § 22-15-15 of said Code.

4. Any person convicted of a second or subsequent violation of this section is subject to double the authorized range of fines and community service for the subsection violated.

5. The sentence of litter cleanup shall be verified by conservation officers from the division of natural resources or environmental inspectors from the division of environmental protection. Any defendant receiving the sentence of litter cleanup shall provide within a time to be set by the court written acknowledgment from a conservation officer or environmental inspector that the sentence has been completed and the litter has been disposed of lawfully.

6. Any person who has been found by the court to have willfully failed to comply with the terms of a litter cleanup sentence imposed by the court pursuant to this section is subject to, at the discretion of the court, double the amount of the original fines and community service penalties.

(d) When there is more than one occupant in a motor vehicle or other conveyance and it cannot be determined which occupant is responsible for violating this section, the driver shall be presumed to be responsible for the violation.

(e) If any litter is placed, deposited, dumped, discharged, or thrown or caused to be placed, deposited, dumped or thrown from a motor vehicle, boat, airplane or other conveyance, it is prima facie evidence that the owner or the operator of the motor vehicle, boat, airplane or other conveyance intended to violate the provisions of this section.

(Ref. W.Va. Code § 17C-14-14)

CHAPTER 15
EQUIPMENT.

§ 12C-1501. Unsafe and improperly equipped vehicles; additional parts and accessories; applicability of chapter to farm and road equipment.

(a) It is a misdemeanor for any person to drive or move or for the owner to cause or knowingly permit to be driven or moved on any street or highway any vehicle or combination of vehicles which is in such unsafe condition as to endanger any person, or which does not contain those parts or is not at all times equipped with such lamps and other equipment in proper condition and adjustment as required in this chapter, or which is equipped in any manner in violation of this chapter, or for any person to do any act forbidden or fail to perform any act required under this chapter.

(b) Nothing contained in this chapter shall be construed to prohibit the use of additional parts and accessories on any vehicle not inconsistent with the provisions of this chapter.

(c) The provisions of this chapter with respect to equipment on vehicles shall not apply to implements of husbandry, road machinery, road rollers, or farm tractors except as herein made applicable. Every farm tractor equipped with an electric lighting system shall at all times mentioned in § 12C-1502 of this chapter display a red tail lamp and either multiple-beam or single-beam head lamps meeting the requirements of §§ 12C-1502, 12C-1520 and 12C-1522 of this chapter, respectively.

(Formerly § 12-401; Ref. W.Va. Code § 17C-15-1)

§ 12C-1502. When lighted lamps are required.

Every vehicle other than a school bus, motorcycle, motor-driven cycle or moped operated upon a street or highway within this town at any time from sunset to sunrise, or during fog, smoke, rain or other unfavorable atmospheric conditions, or at any other time when there is not sufficient light to render clearly discernible persons and vehicles on the street or highway at a distance of five hundred feet ahead, shall display lighted head lamps and illuminating devices as hereinafter respectively required for different classes of vehicles, subject to exceptions with respect to parked vehicles as provided for in § 12C-1515(c) of this chapter. Every school bus, motorcycle, motor-driven cycle and moped shall display lighted head lamps at all times when upon the street or highway.

(Formerly § 12-402; Ref. W.Va. Code § 17C-15-2)

§ 12C-1503. Visibility distance and mounted height of lamps.

(a) Whenever requirement is hereinafter declared as to the distance from which certain lamps and devices shall render objects visible or within which such lamps or devices shall be visible said provisions shall apply during the times stated in § 12C-1502 of this chapter in respect to a vehicle without load when upon a straight, level, unlighted street or highway under normal atmospheric conditions unless a different time or condition is expressly stated.

(b) Whenever requirement is hereinafter declared as to the mounted height of lamps or devices it shall mean from the center of such lamp or device to the level ground upon which the vehicle stands when such vehicle is without a load.

(Formerly § 12-403; Ref. W. Va. Code § 17C-15-3)

§ 12C-1504. Head lamps on motor vehicles.

(a) Every motor vehicle other than a motorcycle, motor-driven cycle or moped shall be equipped with at least two head lamps with at least one on each side of the front of the motor vehicle, which head lamps shall comply with the requirements and limitations set forth in this chapter.

(b) Every motorcycle, motor-driven cycle and moped shall be equipped with at least one and not more than two head lamps which shall comply with the requirements and limitations of this chapter.

(c) Every head lamp upon every motor vehicle, including every motorcycle, motor-driven cycle and moped, shall be located at a height measured from the center of the head lamp of not more than fifty-four inches nor less than twenty-four inches to be measured as set forth in § 12C-1503 of this chapter.

(Formerly § 12-404; Ref. W. Va. Code § 17C-15-4)

§ 12C-1505. Tail lamps.

(a) Every motor vehicle, trailer or semitrailer, and any other vehicle which is being drawn at the end of a train of vehicles, shall be equipped with at least one tail lamp mounted on the rear, which, when lighted as hereinbefore required, shall emit a red light plainly visible from a distance of five hundred feet to the rear, provided that in the case of a train of vehicles only the tail lamp on the rearmost vehicle need actually be seen from the distance specified.

(b) Every tail lamp upon every vehicle shall be located at a height of not more than sixty inches nor less than twenty inches to be measured as set forth in § 12C-1503(b) of this chapter.

(c) Either a tail lamp or a separate lamp shall be *so* constructed and placed as to illuminate with a white light the rear registration plate and render it clearly legible from a distance of fifty feet to the rear. Any tail lamp or tail lamps, together with any separate lamp for illuminating the rear registration plate, shall be so wired as to be lighted whenever the head lamps or auxiliary driving lamps are lighted.

(Formerly § 12-405; Ref. W. Va. Code § 17C-15-5)

§ 12C-1506. Penalty for violations of the provisions of this chapter.

Unless otherwise provided for in this chapter, any person violating the provisions of this chapter is guilty of a misdemeanor and, upon conviction thereof, shall be fined not more than one hundred dollars; upon a second conviction within one year thereafter, shall be fined not more

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

(Ref. W.Va. Code § 17C-15-6)

§ 12C-1507. Reserved.

§ 12C-1508. Application of §§ 12C-1509 to 12C-1513.

Those sections of this title which follow immediately, including §§ 12C-1509 to 12C-1513 of this chapter, and relating to clearance and marker lamps, reflectors, and stop lights shall apply as stated in said sections to vehicles of the type therein enumerated, namely passenger busses, trucks, truck tractors, and certain trailers, semitrailers, and pole trailers, respectively, when operated upon any highway, and said vehicles shall be equipped as required and all lamp equipment required shall be lighted at the times mentioned in § 12C-1502 of this chapter except that clearance and side marker lamps need not be lighted on any said vehicle when operated within the Corporation of Shepherdstown where there is sufficient light to render clearly discernible persons and vehicles on the highway at a distance of five hundred feet.

(Formerly § 12-408; Ref. W.Va. Code § 17C-15-8)

§ 12C-1509. Additional lighting and reflector equipment required on certain vehicles.

In addition to other equipment required in this title the following vehicles shall be equipped as herein stated under the conditions stated in § 12C-1508 of this chapter.

(a) On every bus or truck, whatever its size, there shall be the following:

1. On the rear, two reflectors, one at each side, and one stop light.

(b) On every bus or truck eighty inches or more in overall width, in addition to the requirements in subdivision (a):

1. On the front, two clearance lamps, one at each side.

2. On the rear, two clearance lamps, one at each side.

near 3. On each side, two side marker lamps, one at or near the front and one at or the rear.

rear. 4. On each side, two reflectors, one at or near the front and one at or near the rear.

(c) On every truck tractor:

1. On the front, two clearance lamps, one at each side.

2. On the rear, one stop light.

(d) On every trailer or semitrailer having a gross weight in excess of three thousand pounds:

1. On the front, two clearance lamps, one at each side.
2. On each side, two side marker lamps, one at or near the front and one at or near the rear.
3. On each side, two reflectors, one at or near the front and one at or near the rear.
4. On the rear, two clearance lamps, one at each side, also two reflectors, one at each side, and one stop light.

(e) On every pole trailer in excess of three thousand pounds gross weight:

1. On each side, one side marker lamp and one clearance lamp which may be in combination, to show to the front, side, and rear.
2. On the rear of the pole trailer or load, two reflectors, one at each side.

(f) On every trailer, semitrailer, or pole trailer weighing three thousand pounds gross or less:

1. On the rear, two reflectors, one on each side. If any trailer or semitrailer is so loaded or is of such dimensions as to obscure the stop light on the towing vehicle, then such vehicle shall also be equipped with one stop light.

(Formerly § 12-409; Ref. W.Va. Code § 17C-15-9)

§ 12C-1510. Color of clearance lamps, side marker lamps and reflectors.

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

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

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

(Formerly § 12-410; Ref. W.Va. Code § 17C-15-10)

§ 12C-1511. Mounting of reflectors, clearance lamps and side marker lamps.

(a) Reflectors when required by § 12C-1509 of this chapter shall be mounted at a height not less than twenty-four inches and not higher than sixty inches above the ground on which the vehicle stands, except that if the highest part of the permanent structure of the vehicle is less than

twenty-four inches the reflector at such point shall be mounted as high as that part of the permanent structure will permit.

The rear reflectors on a pole trailer may be mounted on each side of the bolster or load.

Any required red reflector on the rear of a vehicle may be incorporated with the tail lamp, but such reflector shall meet all the other reflector requirements of this title.

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

(Formerly § 12-411; Ref. W.Va. Code § 17C-15-11)

§ 12C-1512. Visibility of reflectors, clearance lamps and marker lamps.

(a) Every reflector upon any vehicle referred to in § 12C-1509 of this chapter shall be of such size and characteristics and so maintained as to be readily visible at nighttime from all distances within five hundred feet to fifty feet from the vehicle when directly in front of lawful upper beams of head lamps. Reflectors required to be mounted on the sides of the vehicle shall reflect the required color of light to the sides, and those mounted on the rear shall reflect a red color to the rear.

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

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

(Formerly § 12-412; Ref. W.Va. Code § 17C-15-12)

§ 12C-1513. Obstructed lights not required to be lighted.

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

(Formerly § 12-413; Ref. W.Va. Code § 17C-15-13)

§ 12C-1514. Lamp or flag on projecting load.

Whenever the load upon any vehicle extends to the rear four feet or more beyond the bed or body of such vehicle there shall be displayed at the extreme rear end of the load, at the times specified in § 12C-1502 of this chapter, a red light or lantern plainly visible from a distance of at least five hundred feet to the sides and rear. The red light or lantern required under this section

shall be in addition to the red rear light required upon every vehicle. At any time there shall be displayed at the extreme rear end of such load a red flag or cloth not less than twelve inches square and so hung that the entire area is visible to the driver of a vehicle approaching from the rear.

(Formerly § 12-414; Ref. W.Va. Code § 17C-15-14)

§ 12C-1515. Lamps on parked vehicles.

(a) Whenever a vehicle is lawfully parked upon a street or highway during the hours between sunset and sunrise and in the event there is sufficient light to reveal any person or object within a distance of five hundred feet upon such street or highway no lights need be displayed upon such parked vehicle.

(b) Whenever a vehicle is parked or stopped upon a roadway or shoulder adjacent thereto, whether attended or unattended, during the hours between sunset and sunrise and there is not sufficient light to reveal any person or object within a distance of five hundred feet upon such highway, such vehicle so parked or stopped shall be equipped with one or more lamps meeting the following requirements: At least one lamp shall display a white or amber light visible from a distance of five hundred feet to the front of the vehicle, and the same lamp or at least one other lamp shall display a red light visible from a distance of five hundred feet to the rear of the vehicle, and the location of said lamp or lamps shall always be such that at least one lamp or combination of lamps meeting the requirements of this section is installed as near as practicable to the side of the vehicle which is closest to passing traffic. The foregoing provisions shall not apply to a motorcycle, motor-driven cycle or moped.

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

(Formerly § 12-415; Ref. W.Va. Code § 17C-15-15)

§ 12C-1516. Lamps on animal-drawn and other vehicles and equipment.

All vehicles including animal-drawn vehicles and including those referred to in § 12C-1501(c) of this chapter not hereinbefore specifically required to be equipped with lamps, shall at the times specified in § 12C-1502 of this chapter be equipped with at least one lighted lamp or lantern exhibiting a white light visible from a distance of five hundred feet to the front of such vehicle and with a lamp or lantern exhibiting a red light visible from a distance of five hundred feet to the rear.

(Formerly § 12-416; Ref. W.Va. Code § 17C-15-16)

§ 12C-1517. Spot lamps and other auxiliary lamps.

(a) Spot lamps. — Any motor vehicle except a public utility company maintenance vehicle may be equipped with not to exceed one spot lamp and every lighted spot lamp shall be so aimed and used upon approaching another vehicle that no part of the high-intensity portion of the beam will be directed to the left of the prolongation of the extreme left side of the vehicle nor more than one hundred feet ahead of the vehicle. A public utility company maintenance vehicle may be equipped with more than one spot lamp but all lighted spot lamps shall be aimed and used in conformity to the requirements of this subsection.

(b) Fog lamps. — Any motor vehicle may be equipped with not to exceed two fog lamps mounted on the front at a height not less than twelve inches nor more than thirty inches above the level surface upon which the vehicle stands and so aimed that when the vehicle is not loaded none of the high-intensity portion of the light to the left of the center of the vehicle shall at a distance of twenty-five feet ahead project higher than a level of four inches below the level of the center of the lamp from which it comes.

(c) Auxiliary passing lamp. — Any motor vehicle may be equipped with not to exceed one auxiliary passing lamp mounted on the front at a height not less than twenty-four inches nor more than forty-two inches above the level surface upon which the vehicle stands and every auxiliary passing lamp shall meet the requirements and limitations set forth in this chapter.

(d) Auxiliary driving lamp. — Any motor vehicle may be equipped with not to exceed one auxiliary driving lamp mounted on the front at a height not less than sixteen inches nor more than forty-two inches above the level surface upon which the vehicle stands and every such auxiliary driving lamp shall meet the requirements and limitations set forth in this chapter.

(Formerly § 12-417; Ref. W.Va. Code § 17C-15-17)

§ 12C-1518. Signal lamps and signal devices.

(a) Any motor vehicle may be equipped and when required under this title shall be equipped with the following signal lamps or devices:

1. A stop lamp on the rear which shall emit a red or yellow light and which shall be actuated upon application of the service (foot) brake and which may but need not be incorporated with a tail lamp.
2. A lamp or lamps or mechanical signal device capable of clearly indicating any intention to turn either to the right or to the left and which shall be visible both from the front and rear.

(b) A stop lamp shall be plainly visible and understandable from a distance of one hundred feet to the rear both during normal sunlight and at nighttime and a signal lamp or lamps indicating intention to turn shall be visible and understandable during daytime and nighttime from a distance of one hundred feet both to the front and rear. When a vehicle is equipped with a stop lamp or other signal lamps, such lamp or lamps shall at all times be maintained in good working condition. No stop lamp or signal lamp shall project a glaring or dazzling light.

(c) All mechanical signal devices shall be self-illuminated when in use at the times mentioned in § 12C-1502 of this chapter.

(Ref. W.Va. Code § 17C-15-18)

§ 12C-1519. Additional lighting equipment.

(a) Any motor vehicle may be equipped with not more than two side cowl or fender lamps which shall emit an amber or white light without glare.

(b) Any motor vehicle may be equipped with not more than one running board courtesy lamp on each side thereof which shall emit a white or amber light without glare.

(c) Except for school buses as provided in this subsection, any motor vehicle may be equipped with not more than two back-up lamps either separately or in combination with other lamps, but any such back-up lamp shall not be lighted when the motor vehicle is in forward motion. School buses used for the transportation of school children in this town, whether owned and operated by a county board of education or privately owned and operated under contract with a county board of education, shall be equipped with two back-up lamps, one on each side of the rear door, with white lens or reflectors, capable of lighting the roadway and objects to the rear of the bus for safe backing during darkness, and which, at the option of the county board of education, may each provide fifty candlepower in illumination intensity instead of thirty-two candlepower.

(d) Any vehicle may be equipped with lamps which may be used for the purpose of warning the operators of other vehicles of the presence of a vehicular traffic hazard requiring the exercise of unusual care in approaching, overtaking or passing, and when so equipped may display such warning in addition to any other warning signals required by this chapter. The lamps used to display such warning to the front shall be mounted at the same level and as widely spaced laterally as practicable and shall display simultaneously flashing white or amber lights, or any shade of color between white and amber. The lamps used to display such warning to the rear shall be mounted at the same level and as widely spaced laterally as practicable, and shall show simultaneously flashing amber or red lights, or any shade of color between amber and red.

(e) Vehicles used by “rural mail carriers” in carrying or delivering mail in rural areas may be equipped with amber flashing lights. Such lights shall be on the front and rear of the vehicle and may be activated when the vehicle is stopped or decreasing speed in order to stop in the course of carrying, delivering or picking up mail along the route.

(f) Notwithstanding any other provision of this code to the contrary, any motor vehicle may be equipped with not more than one electroluminescent solid state ceramic front identification plate without glare, mounted in conformance with the manufacturer’s specifications.

(g) Vehicles used as the lead car in a funeral procession are hereby authorized to be equipped with, but are not required to use, purple lamps or purple flashing lights. Such lamps may be used for the purpose of warning the operators of other vehicles of the presence of a vehicular traffic hazard requiring the exercise of unusual care in approaching, overtaking or passing a funeral procession, and when so equipped may display such warning in addition to any other warning signals required by this chapter. The lamps or flashing lights used to display such warning to the front shall be mounted at the same level and as widely spaced laterally as practicable and shall display simultaneously either illuminated or flashing purple lights. The lamps used to display such warning to the rear shall be mounted at the same level and as widely spaced laterally as practicable, and shall show simultaneously flashing or illuminated purple lights.

(Formerly §§ 12-418 & 12-108(a); Ref. W.Va. Code § 17C-15-19)

§ 12C-1520. Multiple-beam road-lighting equipment – Requirements generally.

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

(a) There shall be an uppermost distribution of light, or composite beam, so aimed and of such intensity as to reveal persons and vehicles at a distance of at least three hundred and fifty feet ahead for all conditions of loading.

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

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

(Formerly § 12-419; Ref. W.Va. Code § 17C-15-20)

§ 12C-1521. Same – Use of; dimming lights upon approaching or overtaking.

(a) Whenever a motor vehicle is being operated on a roadway or shoulder adjacent thereto during the times specified in § 12C-1502 of this chapter, the driver shall use a distribution of light, or composite beam, directed high enough and of sufficient intensity to reveal persons and vehicles at a safe distance in advance of the vehicle, subject to the following requirements and limitations:

(b) Whenever a driver of a vehicle approaches an oncoming vehicle within five hundred feet, such driver shall use a distribution of light, or composite beam, so aimed that the glaring rays are not projected into the eyes of the oncoming driver. The lowermost distribution of light, or composite beam specified in § 12C-1520(b) shall be deemed to avoid glare at all times, regardless of road contour and loading.

(c) Whenever the driver of a vehicle follows another vehicle within two hundred feet to the rear, except when engaged in the act of overtaking and passing, such driver shall use a distribution of light permissible under this title other than the uppermost distribution of light specified in § 12C-1520(a).

(Formerly § 12-420; Ref. W.Va. Code § 17C-15-21)

§ 12C-1522. Single-beam road-lighting equipment.

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

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

(Formerly § 12-421; Ref. W.Va. Code § 17C-15-22)

§ 12C-1523. Lighting equipment on motorcycles, motor-driven cycles and mopeds.

The head lamp or head lamps upon every motorcycle, motor-driven cycle and moped may be of the single-beam or multiple-beam type but in either event shall comply with the requirements and limitations as follows:

1. Every said head lamp or head lamps shall be of sufficient intensity to reveal a person or a vehicle at a distance of not less than one hundred feet when the motorcycle, motor-driven cycle or moped is operated at any speed less than twenty-five miles per hour and at a distance of not less than two hundred feet when it is operated at a speed of twenty-five or more miles per hour.
2. In the event the motorcycle, motor-driven cycle or moped is equipped with a multiple-beam type head lamp or head lamps the upper beam shall meet the minimum requirements set forth above and shall not exceed the limitations set forth in § 12C-1520(a) of this chapter and the lowermost beam shall meet the requirements applicable to a lowermost distribution of light as set forth in § 12C-1520 (b) of this chapter.
3. In the event the motorcycle, motor-driven cycle or moped is equipped with a single-beam lamp or lamps, said lamp or lamps shall be so aimed that when the vehicle is loaded none of the high-intensity portion of light, at a distance of twenty-five feet ahead, shall project higher than the level of the center of the lamp from which it comes.

(Formerly § 12-422; Ref. W.Va. Code § 17C-15-23)

§ 12C-1524. Alternate road-lighting equipment.

Any motor vehicle may be operated under the conditions specified in § 12C-1502 of this chapter when equipped with two lighted lamps upon the front thereof capable of revealing persons and objects seventy-five feet ahead in lieu of lamps required in § 12C-1520 or § 12C-

1522 of this chapter: Provided, however, That at no time shall it be operated at a speed in excess of twenty miles per hour. (§ 12-423)

(Formerly § 12-423; Ref. W.Va. Code § 17C-15-24)

§ 12C-1525. Number of driving lamps required or permitted.

(a) At all times specified in § 12C-1502 of this chapter at least two lighted lamps shall be displayed, one on each side at the front of every motor vehicle other than a motorcycle, motor-driven cycle or moped, except when such vehicle is parked subject to the regulations governing lights on parked vehicles.

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

(Formerly § 12-424; Ref. W.Va. Code § 17C-15-25)

§ 12C-1526. Special restrictions on lamps.

(a) Any lighted lamp or illuminating device upon a motor vehicle other than head lamps, spot lamps, auxiliary lamps or flashing front-direction signals which projects a beam of light of an intensity greater than three hundred candlepower shall be so directed that no part of the beam will strike the level of the roadway on which the vehicle stands at a distance of more than seventy-five feet from the vehicle.

(b) No person shall drive or move any vehicle or equipment upon any highway with any lamp or device thereon displaying other than a white or amber light visible from directly in front of the center thereof except as authorized by subsection (d) of this section.

(c) Except as authorized in subsections (d) and (f) of this section and authorized in § 12C-1519 of this chapter, flashing lights are prohibited on motor vehicles: Provided, That any vehicle as a means for indicating right or left turn, or any vehicle as a means of indicating the same is disabled or otherwise stopped for an emergency may have blinking or flashing lights.

(d) Notwithstanding any other provisions of this title, the following colors of flashing warning lights are restricted for the use of the type of vehicle designated:

1. Blue flashing warning lights are restricted to police vehicles.
2. Except for standard vehicle equipment authorized by § 12C-1519 of this chapter, red flashing warning lights are restricted to ambulances; firefighting vehicles; hazardous material response vehicles; industrial fire brigade vehicles; school buses; Class A vehicles, as defined by § 17A-10-1 of the West Virginia Code, of those firefighters who are authorized by their fire

chiefs to have the lights; Class A vehicles of members of ambulance services or duly chartered rescue squads who are authorized by their respective chiefs to have the lights; and Class A vehicles of out-of-state residents who are active members of West Virginia fire departments, ambulance services or duly chartered rescue squads who are authorized by their respective chiefs to have the lights. Red flashing warning lights attached to the Class A vehicles shall be operated only when responding to or engaged in handling an emergency requiring the attention of the firefighters, members of the ambulance services, or chartered rescue squads.

3. Yellow flashing warning lights are restricted to the following:

(A) All other emergency vehicles, including tow trucks and wreckers, authorized by this title and by § 12C-1527 of this chapter;

(B) Postal service vehicles and rural mail carriers, as authorized in § 12C-1519 of this chapter;

(C) Rural newspaper delivery vehicles;

(D) Flag car services;

(E) Vehicles providing road service to disabled vehicles;

(F) Service vehicles of a public service corporation;

(G) Snow removal equipment; and

(H) School buses.

(e) Notwithstanding the foregoing provisions of this section, any vehicle belonging to a county board of education, an organization receiving funding from the state or federal transit administration for the purpose of providing general public transportation, or hauling solid waste may be equipped with a white flashing strobotron warning light. This strobe light may be installed on the roof of a school bus, a public transportation vehicle, or a vehicle hauling solid waste not to exceed one-third the body length forward from the rear of the roof edge. The light shall have a single clear lens emitting light three hundred sixty degrees around its vertical axis and may not extend above the roof more than six and one-half inches. A manual switch and a pilot light must be included to indicate the light is in operation.

(f) It shall be unlawful for flashing warning lights of an unauthorized color to be installed or used on a vehicle other than as specified in this section, except that a police vehicle may be equipped with either or both blue or red warning lights.

(Formerly § 12-108; Ref. W.Va. Code § 17C-15-26)

§ 12C-1527. Standards for lights on snow removal equipment.

It shall be unlawful to operate any snow removal equipment on any street or highway of the town unless the lamps thereon comply with and are lighted when and as required by the standards and specifications adopted by the commissioner of highways.

(Ref. W.Va. Code § 17C-15-27)

§ 12C-1528. Reserved.

§ 12C-1529. Reserved.

§ 12C-1530. Reserved.

§ 12C-1531. Brakes – Generally.

(a) Brake equipment required. --

when means of brakes to at connected operating wheels. (1) Every motor vehicle, other than a motorcycle, motor-driven cycle or moped, operated upon a street or highway shall be equipped with brakes adequate to control the movement of and to stop and hold such vehicle, including two separate applying the brakes, each of which means shall be effective to apply the least two wheels. If these two separate means of applying the brakes are in any way, they shall be so constructed that failure of any one part of the mechanism shall not leave the motor vehicle without brakes on at least two

highway, or foot. (2) Every motorcycle, motor-driven cycle and moped, when operated upon a shall be equipped with at least one brake which may be operated by hand

(3) Every trailer or semitrailer of a gross weight of three thousand pounds or more when operated upon a highway shall be equipped with brakes adequate to control the movement of and to stop and to hold such vehicle and so designed as to be applied by the driver of the towing motor vehicle from its cab, and said brakes shall be so designed and connected that in case of an accidental breakaway of the towed vehicle the brakes shall be automatically applied.

three need not and (3) weight need (4) Every new motor vehicle, trailer or semitrailer hereinafter sold in this State and operated upon the street or highways shall be equipped with service brakes upon all wheels, with the following exceptions: (1) That trucks and truck-tractors having or more axles need not have brakes on the front wheels, except when such vehicles are equipped with at least two steerable axles, the wheels of one such axle be equipped with brakes, (2) any motorcycle, motor-driven cycle or moped, that any semitrailer of less than one thousand five hundred pounds gross not be equipped with brakes.

(5) In any combination of motor-driven vehicles, means shall be provided for applying the rearmost trailer brakes, of any trailer equipped with brakes, in approximate synchronism with the brakes on the towing vehicle and developing the

required braking effort on the rearmost wheels at the fastest rate; or means shall be provided for applying braking effort first on the rearmost trailer equipped with brakes; or both of the above means capable of being used alternatively may be employed.

(6) Every such vehicle and combination of vehicles, except motorcycles, motor-driven cycles and mopeds, shall be equipped with parking brakes adequate to hold the vehicle on any grade on which it is operated, under all conditions of loading on a surface free from snow, ice or loose material. The parking brakes shall be capable of being applied in conformance with the foregoing requirements by the driver's muscular effort or by spring action or by equivalent means. Their operation may be assisted by the service brakes or other source of power provided that failure of the service brake actuation system or other power assisting mechanism will not prevent the parking brakes from being applied in conformance with the foregoing requirements. The parking brakes shall be so designed that when once applied they shall remain applied with the required effectiveness despite exhaustion of any source of energy or leakage of any kind. The same brake drums, brake shoes and lining assemblies, brake shoe anchors and mechanical brake shoe actuation mechanism normally associated with the wheel brake assemblies may be used for both the service brakes and the parking brakes. If the means of applying the parking brakes and the service brakes are connected in any way, they shall be so constructed that a failure of any one part shall not leave the vehicle without operative brakes.

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

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

	Feet to stop from 20 miles per hour	Deceleration in feet per second
Vehicles or combinations of vehicles having brakes on all wheels.....	30	14
Vehicles or combinations of vehicles not having brakes on all wheels.....	40	10.7

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

(Formerly § 12-425; Ref. W.Va. Code § 17C-15-31)

§ 12C-1532. Brakes on motorcycle, motor-driven cycles and mopeds.

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

(Ref. W.Va. Code § 17C-15-32)

§ 12C-1533. Horns and warning devices.

(a) Every motor vehicle when operated upon a street or highway shall be equipped with a horn in good working order and capable of emitting sound audible under normal conditions from a distance of not less than two hundred feet, but no horn or other warning device shall emit an unreasonably loud or harsh sound or a whistle. The driver of a motor vehicle shall when reasonably necessary to insure safe operation give audible warning with his horn but shall not otherwise use such horn when upon a highway.

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

(c) It is permissible but not required that any commercial vehicle be equipped with a theft alarm signal device which is so arranged that it cannot be used by the driver as an ordinary warning signal.

Any authorized emergency vehicle may be equipped with a siren, whistle, or bell, capable of emitting sound audible under normal conditions from a distance of not less than five hundred feet and of a type approved by the department, but such siren shall not be used except when such vehicle is operated in response to an emergency or in the immediate pursuit of an actual or suspected violator of the law, in which said latter events the driver of such vehicle shall sound said siren when reasonably necessary to warn pedestrians and other drivers of the approach thereof.

(Formerly § 12-426; Ref. W.Va. Code § 17C-15-33)

§ 12C-1534. Mufflers; prevention of noise, fumes and smoke.

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

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

(Formerly § 12-427; Ref. W.Va. Code § 17C-15-34)

§ 12C-1535. Mirrors.

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

(Formerly § 12-428; Ref. W.Va. Code § 17C-15-35)

§ 12C-1536. Windshields must be unobstructed and equipped with wipers.

(a) No person shall drive any motor vehicle with any sign, poster, or other nontransparent material upon the front windshield, side wings, or side or rear windows of such vehicle which obstructs the driver's clear view of the highway or any intersecting highway.

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

(Formerly § 12-429; Ref. W.Va. Code § 17C-15-36)

§ 12C-1536a. Sun screening devices; penalty.

(a) No person may operate a motor vehicle that is registered or required to be registered in the state on any public highway, road or street that has a sun screening device on the windshield, the front side wings and side windows adjacent to the right and left of the driver and windows adjacent to the rear of the driver that do not meet the requirements of this section.

(b) A sun screening device when used in conjunction with the windshield must be nonreflective and may not be red, yellow or amber in color. A sun screening device may be used only along the top of the windshield and may not extend downward beyond the ASI line or more than five inches from the top of the windshield whichever is closer to the top of the windshield.

(c) A sun screening device when used in conjunction with the automotive safety glazing materials of the side wings or side windows located at the immediate right and left of the driver shall be a nonreflective type with reflectivity of not more than twenty percent and have a light transmission of not less than thirty-five percent. The side windows behind the driver and the rear most windows may have a sun screening device that is designed to be used on automotive safety glazing materials that has a light transmission of not less than thirty-five percent and a reflectivity of not more than twenty percent. If a sun screening device is used on glazing behind the driver, one right and one left outside rear view mirror is required.

(d) Reserved.

(e) No person may:

(1) Offer for sale or for use any sun screening product or material for motor vehicle use not in compliance with this section; or

(2) Install any sun screening product or material on vehicles intended for use on public roads without permanently affixing the label specified in § 17C-15-36a(d) of the West Virginia Code.

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

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

(h) As used in this section:

(1) "Bus" means a motor vehicle with motive power, except a trailer, designed for carrying more than ten persons.

(2) "Light transmission" means the ratio of the amount of total light to pass through a product or material to the amount of the total light falling on the product or material.

(3) "Luminous reflectants" means the ratio of the amount of total light that is reflected outward by the product or material to the amount of the total light falling on the product or materials.

(4) "Manufacturer" means any person engaged in the manufacturing or assembling of sun screening products or materials designed to be used in conjunction with vehicle glazing materials for the purpose of reducing the effects of the sun.

(5) "Motor homes" means vehicular units designed to provide temporary living quarters built into and an integral part of or permanently attached to a self-propelled motor vehicle chassis.

(6) "Multipurpose passenger vehicle" means a motor vehicle with motive power, except a trailer, designed to carry ten persons or less which is constructed either on a truck chassis or with special features for occasional off-road operation.

(7) "Nonreflective" means a product or material designed to absorb light rather than to reflect it.

(8) "Passenger car" means a motor vehicle with motive power, except a multipurpose passenger vehicle, motorcycle or trailer, designed for carrying ten persons or less.

used of (9) “Sun screening device” means film material or device that is designed to be in conjunction with motor vehicle safety glazing materials for reducing the effects of the sun.

(10) “Truck” means a motor vehicle with motive power, except a trailer, designed primarily for the transportation of property or special purpose equipment.

(i) Any person violating the provisions of this section is guilty of a misdemeanor and, upon conviction thereof, shall be fined not more than two hundred dollars.

(Ref. W.Va. Code § 17C-15-36a)

§ 12C-1537. Tire equipment restrictions; rules and regulations as to certain tires.

(a) Every solid rubber tire on a vehicle shall have rubber on its entire traction surface at least one inch thick above the edge of the flange of the entire periphery.

(b) No person shall operate or move on any street or highway any motor vehicle, trailer or semitrailer having any metal tire in contact with the roadway.

(c) No tire on a vehicle moved on a highway shall have on its periphery any block, stud, flange, cleat or spike or any other protuberance of any material other than rubber which projects beyond the tread of the traction surface of the tire, except that (1) it shall be permissible to use farm machinery with tires having protuberances which will not injure the highway, (2) it shall be permissible to use tire chains of reasonable proportions upon any vehicle when required for safety because of snow, ice or other conditions tending to cause a vehicle to skid, and (3) it shall be permissible to use studded tires during the period from November first of each year until April fifteenth of the following year: Provided, That in the interest of highway maintenance, no vehicle moved on a highway, other than school buses, shall be equipped with studded tires which are operational with a recommended air pressure greater than forty pounds per square inch.

(d) No studded tires or chains shall be sold or used within the State of West Virginia which do not meet the specifications established by the rules and regulations which the commissioner of highways shall promulgate, but the commissioner may not by those rules and regulations prohibit the use of studded tires or chains within the State.

(e) The commissioner of highways and the Corporation of Shepherdstown may in their discretion issue special permits authorizing the operation upon the highway of traction engines or tractors having movable tracks with transverse corrugations upon the periphery of such movable tracks or farm tractors or other farm machinery, the operation of which upon a highway would otherwise be prohibited under this title.

(Formerly § 12-430; Ref. W.Va. Code § 17C-15-37)

§ 12C-1538. Safety glass in motor vehicles.

(a) No person shall operate any motor vehicle as specified herein, nor shall any motor vehicle as specified herein be registered thereafter unless such vehicle is equipped with safety glass of a type approved by the West Virginia commissioner of highways wherever glass is used

in doors, windows, and windshields. The foregoing provisions shall apply to all passenger-type motor vehicles, including passenger busses and school busses, but in respect to trucks, including truck tractors, the requirements as to safety glass shall apply to all glass used in doors, windows, and windshields in the drivers' compartments of such vehicles.

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

(Ref. W.Va. Code § 17C-15-38)

§ 12C-1539. Flares and other warning devices to be carried in certain vehicles.

(a) No person shall operate any motor truck, passenger bus, road tractor or truck tractor upon any street or highway inside the corporate limits of this town at any time from a half hour after sunset to a half hour before sunrise unless there shall be carried in such vehicle the following equipment except as provided in subsection (b):

(1) At least three flares or three red electric lanterns each of which shall be capable of being seen and distinguished at a distance of five hundred feet under normal atmospheric conditions at nighttime.

Each flare (liquid-burning pot torch) shall be capable of burning for not less than twelve hours in five miles per hour wind velocity and capable of burning in any air velocity from zero to forty miles per hour. Every such flare shall be substantially constructed so as to withstand reasonable shocks without leaking. Every such flare lantern shall be carried in the vehicle in a metal rack or box. Every such red electric lantern shall be capable of operating continuously for not less than twelve hours and shall be substantially constructed so as to withstand reasonable shock without breakage.

(2) At least three red-burning fusees unless red electric lanterns are carried.

Every fusee shall be made in accordance with specifications of the Bureau of Explosives, Thirty Vesey Street, New York City, and so marked and shall be capable of burning at least fifteen minutes.

(3) At least two red cloth flags, not less than twelve inches square, with standards to support same.

(b) No person shall operate at the time and under the conditions stated in subsection (a) any motor vehicle used in the transportation of flammable liquids in bulk, or transporting compressed flammable gases, unless there shall be carried in such vehicle three red electric lanterns meeting the requirements above stated, and there shall not be carried in any said vehicle any flares, fusees, or signal produced by a flame.

(c) As an alternative it shall be deemed a compliance with this section in the event a person operating any motor vehicle described in this section shall carry in such vehicle three portable reflector units on standards of a type approved by the commissioner of highways. No portable reflector unit shall be approved unless it is so designed and constructed as to include two reflectors, one above the other, each of which shall be capable of reflecting red light clearly visible from all distances within five hundred feet to fifty feet under normal atmospheric conditions at nighttime when directly in front of lawful upper beams of head lamps.

(Formerly § 12-432; Ref. W.Va. Code § 17C-15-39)

§ 12C-1540. Display of warning devices when vehicle is disabled.

(a) Whenever any motor truck, passenger bus, truck tractor, trailer, semitrailer, or pole trailer is disabled upon the traveled portion of any street or highway or the shoulder thereof inside of this town at any time when lighted lamps are required on vehicles the driver of such vehicle shall display the following warning devices upon the street or highway during the time the vehicle is so disabled on the street or highway except as provided in subsection (b):

of (1) A lighted fusee shall be immediately placed on the roadway at the traffic side of the motor vehicle unless electric lanterns are displayed.

as (2) Within the burning period of the fusee and as promptly as possible three lighted flares (pot torches) or three electric lanterns shall be placed on the roadway follows:

vehicle, One at a distance of approximately one hundred feet in advance of the
vehicle, each one at a distance of approximately one hundred feet to the rear of the
at the in the center of the lane of traffic occupied by the disabled vehicle, and one
thereof. traffic side of the vehicle approximately ten feet rearward or forward

(b) Whenever any vehicle used in the transportation of flammable liquids in bulk, or transporting compressed flammable gases is disabled upon a highway at any time or place mentioned in subsection (a) of this section, the driver of such vehicle shall display upon the roadway the following lighted warning devices: One red electric lantern shall be immediately placed on the roadway at the traffic side of the vehicle and two other red electric lanterns shall be placed to the front and rear of the vehicle in the same manner prescribed in subsection (a) above for flares.

When a vehicle of a type specified in subsection (b) is disabled the use of flares, fusees, or any signal produced by flame as warning signals is prohibited.

(c) Whenever any vehicle of a type referred to in this section is disabled upon the traveled portion of a highway or the shoulder thereof inside of this town at any time when the display of fusees, flares, or electric lanterns is not required, the driver of such vehicle shall display two red flags upon the roadway in the lane of traffic occupied by the disabled vehicle, one at a distance of approximately one hundred feet in advance of the vehicle, and one at a distance of approximately one hundred feet to the rear of the vehicle.

(d) In the alternative it shall be deemed a compliance with this section in the event three portable reflector units on standards of a type approved by the West Virginia commissioner of highways are displayed at the times and under the conditions specified in this section either during the daytime or at nighttime and such portable reflector units shall be placed on the roadway in the locations as described with reference to the placing of electric lanterns and lighted flares.

(e) The flares, fusees, lanterns, and flags to be displayed as required in this section shall conform with the requirements of § 12C-1539 of this chapter applicable thereto.

(Formerly § 12-433; Ref. W.Va. Code § 17C-15-40)

§ 12C-1541. Vehicles transporting explosives.

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

(a) Said vehicle shall be marked or placarded on each side and the rear with the word “Explosives” in letters not less than eight inches high, or there shall be displayed on the rear of such vehicle a red flag not less than twenty-four inches square marked with the word “Danger” in white letters six inches high.

(b) Every said vehicle shall be equipped with not less than two fire extinguishers, filled and ready for immediate use, and placed at a convenient point on the vehicle so used.

(Ref. W.Va. Code § 17C-15-41)

§ 12C-1542. Television receivers in view of driver prohibited.

No motor vehicle shall be operated on any street or highway in this Town when equipped with a television receiver unless such receiver is so placed that the screen or picture tube of such receiver is visible only in the rear seat of such motor vehicle and not in view of the operator of such motor vehicle.

(Ref. W.Va. Code § 17C-15-42)

§ 12C-1543. Reserved.

§ 12C-1544. Safety equipment and requirement for motorcyclists, motorcycles, motor-driven cycles and mopeds.

(a) No person shall operate or be a passenger on any motorcycle or motor-driven cycle unless the person is wearing securely fastened on his or her head by either a neck or chin strap a protective helmet designed to deflect blows, resist penetration and spread impact forces. Any helmet worn by an operator or passenger shall meet the current performance specifications established by the American National Standards Institute Standard, Z 90.1, the United States Department of Transportation Federal Motor Vehicle Safety Standard No. 218 or Snell Safety Standards for Protective Headgear for Vehicle Users.

(b) No person shall operate or be a passenger on any motorcycle or motor-driven cycle unless the person is wearing safety, shatter-resistant eyeglasses (excluding contact lenses), or eyegoggles or face shield that complies with the performance specifications established by the American National Standards Institute for Head, Eye and Respiratory Protection, Z 2.1. In addition, if any motorcycle, motor-driven cycle or moped be equipped with a windshield or windscreen, the windshield or windscreen shall be constructed of safety, shatter-resistant material that complies with the performance specifications established by Department of Transportation Federal Motor Vehicle Safety Standard No. 205 and American National Standards Institute, Safety Glazing Materials for Glazing Motor Vehicles Operated on Land Highways, Standard Z 26.1.

(c) No person shall operate a motorcycle, motor-driven cycle or moped on which the handlebars or grips are more than fifteen inches higher than the uppermost part of the operator's seat when the seat is not depressed in any manner.

(d) A person operating a motorcycle, motor-driven cycle or moped shall ride in a seated position facing forward and only upon a permanent operator's seat attached to the vehicle. No operator shall carry any other person nor shall any other person ride on the vehicle unless the vehicle is designed to carry more than one person, in which event a passenger may ride behind the operator upon the permanent operator's seat if it is designed for two persons, or upon another seat firmly attached to the vehicle to the rear of the operator's seat and equipped with footrests designed and located for use by the passenger or in a sidecar firmly attached to the vehicle. No person shall ride side saddle on a seat. An operator may carry as many passengers as there are seats and footrests to accommodate those passengers. Additional passengers may be carried in a factory produced sidecar provided that there is one passenger per seat. Passengers riding in a sidecar shall be restrained by safety belts.

(e) Every motorcycle, motor-driven cycle and moped shall be equipped with a rearview mirror affixed to the handlebars or fairings and adjusted so that the operator shall have a clear view of the road and condition of traffic behind him for a distance of at least two hundred feet.

(Ref. W.Va. Code § 17C-15-44)

§ 12C-1545. Certification labels on mopeds.

Every moped sold in this State and operated on a street or highway of this Town shall have permanently affixed to it a certification label which shall contain the following information:

- (1) Name of manufacturer;
- (2) Month and year of manufacture;
- (3) Gross vehicle weight rating (GVWR);
- (4) Gross axle weight rating for front and rear axles (GAWR);
- (5) Vehicle identification number;
- (6) Classification type; and

(7) Statement of conformance to federal standards as required by federal law.

(Ref. W.Va. Code § 17C-15-45)

§ 12C-1546. Child passenger safety device required.

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

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

If 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.

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

(Formerly § 12-439; Ref. W.Va. Code § 17C-15-46)

§ 12C-1547. Commercial towing vehicles to employ safety chains.

Every vehicle used in any business in the Corporation of Shepherdstown for towing wrecked or disabled vehicles shall carry a safety chain at all times. No such towing vehicle may tow a wrecked or disabled vehicle unless a safety chain is securely in place coupling the towing vehicle to the vehicle being towed. For purposes of this section, safety chain means chain or cable of sufficient strength to keep the towing and towed vehicles connected in the event that the towing sling or other primary connection fails.

(Ref. W.Va. Code § 17C-15-47)

§ 12C-1548. Alteration of motor vehicles; bumper height limits; other modifications; exceptions; required inspections; and rules of West Virginia state police.

(a) No person may operate upon a public street or highway in this town any motor vehicle registered or required to be registered in this State if it has been modified by alteration of its height from the ground to the extent that its bumpers, measured to any point on the lower edge of the main horizontal bumper bar, exclusive of any bumper guards, do not fall within the limits specified herein for its gross vehicle weight rating category. The front and rear bumper height of motor vehicles whose gross vehicle weight rating is ten thousand pounds or less may be no less than six inches and no more than thirty-one inches. In the absence of bumpers, and in cases

where bumper heights have been altered or modified, height measurements shall be made to the bottom of the frame rail. If a motor vehicle has a bumper, the bumper must be at least three inches in vertical width, centered on the center line of the motor vehicle and not less than the width of the wheel track distance. The provisions of this subsection do not apply to motor vehicles with a gross vehicle weight rating in excess of ten thousand pounds. For the purpose of this subsection, the term “gross vehicle weight ratings” means the manufacturer’s gross vehicle weight ratings established for that vehicle.

(b) The maximum distance between the vehicle body to the vehicle frame may not exceed three inches. The distance from the vehicle body to the vehicle frame shall be measured from the vehicle body mount seat to the vehicle frame mount seat: Provided, That the maximum distance limitation shall not prohibit a body lift kit up to three inches to be added to the manufacturer’s original spacer between the body and the frame. No vehicle may be modified to cause the vehicle body or chassis to come in contact with the ground, expose the fuel tank to damage from collision, or cause the wheels to come in contact with the body under normal operation. No part of the original suspension system may be disconnected to defeat the safe operation of the suspension system. Modification of the front end suspension by the use of lift blocks is expressly prohibited.

(c) Nothing contained in this section prevents the installation of heavy duty equipment, including shock absorbers and overload springs.

(d) Nothing contained in this section prohibits the operation on a public street or highway of a motor vehicle with normal wear to the suspension system if such normal wear does not adversely affect the control of the vehicle.

(e) This section does not apply to specially designed or modified motor vehicles when operated off the public streets or highways in races and similar events. Such motor vehicles may be lawfully towed on the streets or highways of this town.

(f) Modifications to motor vehicles, not prohibited herein, shall be made subject to inspection as provided in subsection (g) herein.

(g) Nothing contained in this section shall subject a vehicle modified solely by the installation of tires not larger than two sizes beyond the maximum specified by the manufacturer to inspection as provided in subsection (h) herein.

(h) Any motor vehicle which has been altered from the manufacturer’s specification with respect to bumper height for that vehicle make and model but within the allowable limits of subsection (a) or any motor vehicle which has been altered from the manufacturer’s specification for that vehicle make and model with respect to the distance from the vehicle body to vehicle frame but within the allowable limits of subsection (b) may be operated upon a public street or highway in this town, subject to inspection hereunder: Provided, That any motor vehicle which has been altered from the manufacturer’s specification by lowering the bumper height for that vehicle make and model within the allowable limits of subsection (a) shall be exempt from the inspection requirements hereunder and may be operated upon a public street or highway in this

town subject to provisions of § 12C-1601 et seq. of this title. If a motor vehicle and its equipment subject to inspection under this section are inspected and found to be in compliance with the provisions of this section and to be otherwise in safe condition, an official “modified vehicle sticker” shall be displayed on the vehicle. The Shepherdstown Police Department must record on accident report forms whether a modified vehicle was involved in the accident.

(Ref. W.Va. Code § 17C-15-48)

§ 12C-1549. Operation of vehicles with safety belts; exception; penalty.

(a) A person may not operate a passenger vehicle on a public street or highway of this town unless the person, any passenger in the back seat under eighteen years of age, and any passenger in the front seat of such passenger vehicle is restrained by a safety belt meeting applicable federal motor vehicle safety standards. For the purposes of this section, the term “passenger vehicle” means a motor vehicle which is designed for transporting ten passengers or less, including the driver, except that such term does not include a motorcycle, a trailer, or any motor vehicle which is not required on the date of the enactment of this section under a federal motor vehicle safety standard to be equipped with a belt system. The provisions of this section shall apply to all passenger vehicles manufactured after the first day of January, one thousand nine hundred sixty-seven, and being 1968 models and newer.

(b) The required use of safety belts as provided herein does not apply to a duly appointed or contracted rural mail carrier of the United States postal service who is actually making mail deliveries or to a passenger or operator with a physically disabling condition whose physical disability would prevent appropriate restraint in such safety belt if the condition is duly certified by a physician who shall state the nature of the disability as well as the reason such restraint is inappropriate.

(c) Any person who violates the provisions of this section shall be fined not more than twenty-five dollars. No court costs or other fees shall be assessed for a violation of this section. Enforcement of this section shall be accomplished only as a secondary action when a driver of a passenger vehicle has been detained for probable cause of violating another section of this code.

(d) Nothing contained in this section shall be construed to abrogate or alter the provisions of § 12C-1546 of this chapter relating to the mandatory use of child passenger safety devices.

(Formerly § 12-438; Ref. W.Va. Code § 17C-15-49)

§ 12C-1550. Deployed restraint systems resale or reinstallation prohibited.

A person who knowingly installs or reinstalls any object in lieu of an air bag or anything other than a not previously deployed air bag that was designed in accordance with federal safety regulations for the make, model and year of vehicle, as part of a vehicle inflatable restraint system, is guilty of a misdemeanor and, upon conviction thereof, shall be fined not less than one thousand nor more than five thousand dollars.

(Ref. W.Va. Code § 17C-15-50)

Section 12C-1551: PROHIBITED USE OF AN ELECTRONIC COMMUNICATIONS DEVICE, DRIVING WITHOUT HANDHELD FEATURES. (added October 2012)

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

(1) Texting; or

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

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

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

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

(3) "Electronic communication device" means a cell telephone, personal digital assistant, electronic device with mobile data access, laptop computer, pager, broadband personal communication device, 2-way messaging device, electronic game, or portable computing device. For the purposes of this section, an "electronic communication device" does not include:

(A) Voice radios, mobile radios, land mobile radios, commercial mobile radios or two way radios with the capability to transmit and receive voice transmissions utilizing a push-to-talk or press-to-transmit function; or

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

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

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

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

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

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

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

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

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

(A) Viewing or transmitting images or data;

(B) Playing games;

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

(D) Engaging in a call.

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

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

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

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

(d) This section does not supersede any more restrictive provisions for drivers of commercial motor vehicles prescribed by the provisions of chapter seventeen-e of the West Virginia Code or federal law or rule.

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

(f) Driving or operating a motor vehicle on a public street or highway while texting shall be enforced as a primary offense as of November 1, 2012. Driving or operating a motor vehicle on a public street or highway while using a cell phone or other electronic communication device without hands-free equipment shall be enforced as a secondary offense as of November 1, 2012, and as a primary offense as of July 1, 2013 for purposes of citation.

(g) Nothing contained in this section shall be construed to authorize seizure of a cell phone or electronic device by any law- enforcement agency.

(Ref. W. Va. Code § 17C-14-15)

CHAPTER 16
INSPECTION OF VEHICLES

§ 12C-1601. Vehicles not to operate without required equipment or in unsafe condition.

No person shall drive or move on any street or highway any motor vehicle, trailer, semitrailer, or pole trailer, or any combination thereof unless the equipment upon any and every said vehicle is in good working order and adjustment as required in this title and said vehicle is in such safe mechanical condition as not to endanger the driver or other occupant or any person upon any street or highway.

(Ref. W.Va. Code § 17C-16-1)

§ 12C-1602. Reserved.

§ 12C-1603. Reserved.

§ 12C-1604. Reserved.

§ 12C-1605. Reserved.

§ 12C-1606. Reserved.

§ 12C-1607. Reserved.

§ 12C-1608. 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.

(Ref. W.Va. Code § 17C-16-8)

§ 12C-1609. Operation without certificate or failure to produce certificate; penalty for misdemeanor.

It is a misdemeanor for any owner or operator, or both owner and operator, of any vehicle required to be inspected under Article 16 of Chapter 17C of the West Virginia Code, to operate or permit to be operated such vehicle without having displayed thereon a current and valid certificate of inspection and approval or fail to produce same upon demand of any officer of the Shepherdstown Police Department: Provided, That a dealer licensed to sell new vehicles under the provision of § 17A-6-1 et seq. of the West Virginia Code shall not be required to display a certificate of inspection and approval upon any new vehicle if the vehicle is driven for an operational purpose including all activities associated with dealer preparation for sale of a motor vehicle belonging to such dealer when such vehicle has not been titled or delivered to a

purchaser, and when such car is not to be used in the demonstrator fleet or otherwise routinely driven on the highways or roads of this town. Unless another penalty is by the laws of this state provided, every person convicted of a misdemeanor for operating a vehicle without having displayed thereon a current and valid certificate of inspection and approval or for failure to produce such certificate upon demand of an authorized person shall be punished by a fine of not more than one hundred dollars: Provided, That any person who obtains an inspection and a current and valid certificate of inspection and who, within five days of the issuance of a citation for a violation of the provisions of this section, provides a receipt of inspection to and makes the vehicle so operated available for examination by the Shepherdstown Municipal Court, shall not be guilty of a violation of the provisions of this section: Provided, however, That the misdemeanor penalty shall be imposed if the certificate of inspection has not been valid for a period exceeding three months prior to the date of the issuance of a citation.

(Formerly § 12-436; Ref. W.Va. Code § 17C-16-9)

CHAPTER 17
SIZE, WEIGHT AND LOAD

§ 12C-1701. Unlawful to exceed size and weight limitations; application of chapter to fire apparatus, farm machinery, etc.; “operate a vehicle or combination of vehicles” construed.

(a) It shall be unlawful for any owner, lessee or borrower of a vehicle or combination of vehicles to operate on any highway such vehicle or combination of vehicles, whether driven by such owner, lessee or borrower, or by some person on behalf of such owner, lessee or borrower, of a size or weight exceeding any limitation stated in this chapter, or otherwise in violation of any provision of this chapter, whether such limitation or provision be specifically stated in this chapter or set by express authority granted in this chapter, and the maximum size and weight of vehicles herein specified shall be lawful throughout this town. Subject to the penalties for weight violations provided in § 12C-1714 of this chapter, violation of this section shall constitute a misdemeanor.

(b) The provisions of this chapter governing size, weight, and load shall not apply to fire apparatus, road machinery, or to implements of husbandry, including farm tractors, temporarily moved upon a street or highway, or to a vehicle operated under the terms of a special permit issued as herein provided.

(c) The phrase “operate a vehicle or combination of vehicles” shall in this chapter be interpreted to mean the use of such vehicle or combination of vehicles on behalf of the owner, lessee or borrower, whether driven by him or by some person on behalf of him.

(Formerly § 12-501; Ref. W.Va. Code § 17C-17-1)

§ 12C-1702. Width of vehicles.

(a) The total outside width, exclusive of safety equipment authorized by the United States department of transportation, of any vehicle or the load thereon shall not exceed ninety-six inches, except as otherwise provided in this chapter: Provided, That any vehicle with a total outside width of one hundred two inches, exclusive of safety equipment authorized by the United States department of transportation, may be operated on any highway within the town designated by the United States department of transportation or the commissioner of the department of highways or on any highway having a minimum lane width of ten feet.

(b) Motor buses and trackless trolley coaches with a total outside width of one hundred two inches, excluding safety equipment authorized by the United States department of transportation, may operate on any highway in this town.

(Formerly § 12-502; Ref. W.Va. Code § 17C-17-2)

§ 12C-1703. Projecting loads on passenger vehicles.

No passenger-type vehicle shall be operated on any highway with any load carried thereon extending beyond the line of the fenders of the left side of such vehicle nor extending more than six inches beyond the line of the fenders on the right side thereof.
(Formerly § 12-503; Ref. W.Va. Code §17C-17-3)

§ 12C-1704. Height and length of vehicles and loads.

(a) A vehicle including any load thereon shall not exceed a height of thirteen feet six inches, but the owner or owners of such vehicles shall be responsible for damage to any bridge or highway structure and to this town for any damage to traffic control devices or other highway structures where such bridges, devices or structures have a vehicle clearance of less than thirteen feet six inches.

(b) A motor vehicle including any load thereon shall not exceed a length of forty feet extreme overall dimension, inclusive of front and rear bumpers.

(c) Except as hereinafter provided, a combination of vehicles coupled together shall not consist of more than two units, and no such combination of vehicles including any load thereon shall have an overall length, inclusive of front and rear bumpers, in excess of fifty-five feet, except as provided in § 12C-1711b of this chapter, and except as otherwise provided in respect to the use of a pole trailer as authorized in § 12C-1705 of this chapter: Provided, That the limitation that a combination of vehicles coupled together shall not consist of more than two units shall not apply to a combination of vehicles coupled together by a saddle mount device used to transport motor vehicles in a drive-away service when no more than three saddle mounts are used: Provided, however, That equipment used in said combination meets the requirements of the safety regulations of the United States department of transportation and shall not exceed an overall length of more than sixty-five feet.

(d) The length limitations for truck tractor-semitrailer combinations and truck tractor-semitrailer-trailer combinations operating on the national system of interstate and defense highways and those classes of qualifying federal-aid primary system highways so designated by the United States secretary of transportation, and those highways providing reasonable access to and from terminals, facilities for food, fuel, repairs and rest, and points of loading and unloading for household goods carriers from such highways, and further, as to other highways so designated by the West Virginia commissioner of highways, shall be as follows: The maximum length of a semitrailer unit operating in a truck tractor-semitrailer combination shall not exceed forty-eight feet in length, except where semitrailers have an axle spacing of not more than thirty- seven feet between the rear axle of the truck tractor and the front axle of the semitrailer, such semitrailer shall be allowed to be not more than fifty-three feet in length and the maximum length of any semitrailer or trailer operating in a truck tractor-semitrailer-trailer combination shall not exceed twenty-eight and one-half feet in length and in no event shall any combinations exceed three units, including the truck tractor: Provided, That nothing herein contained shall impose an overall length limitation as to commercial motor vehicles operating in truck tractor- semitrailer or truck tractor-semitrailer-trailer combinations.

(Formerly § 12-504; Ref. W.Va. Code § 17C-17-4)

§ 12C-1705. Special load limits.

(a) Subject to the foregoing provisions of this chapter limiting the length of vehicles and loads, the load upon any vehicle operated alone or the load upon the front vehicle of a combination of vehicles shall not extend more than three feet beyond the foremost part of the vehicle, and the load upon any vehicle operated alone or the load upon the rear vehicle of a combination of vehicles shall not extend more than six feet beyond the rear of the bed or body of such vehicle: Provided, That a digger/derrick line truck may be operated with a load of no more than forty feet in length, with the load extending no more than six feet beyond the foremost part of the truck and no more than nine feet beyond the rear of the bed of the body of the truck, between sunrise and sunset except in an emergency, and the operation of the truck shall comply with the provisions of § 12C-1514 of this title.

(b) The limitations as to length of vehicles and loads heretofore stated in § 12C-1704 of this chapter and subsection (a) of this section shall not apply to any load upon a pole trailer when transporting poles or pipes or structural material which cannot be dismembered: Provided, That no pole or pipe or other material exceeding eighty feet in length shall be so transported unless a permit has first been obtained as authorized in § 17C-17-11 of the West Virginia Code.

(Formerly § 12-505; Ref. W.Va. Code § 17C-17-5)

§ 12C-1706. Loads to be securely fastened and not allowed to leak, escape, etc.

(a) No vehicle or combination of vehicles shall be operated on any highway unless such vehicle or combination of vehicles is so constructed or loaded as to prevent any of its load from dropping, sifting, leaking, or otherwise escaping therefrom, except that sand may be dropped for the purpose of securing traction, or water or other substance may be sprinkled on a roadway in cleaning or maintaining such roadway.

(b) It shall be unlawful to operate on any highway any vehicle or combination of vehicles with any load unless said load and any covering thereon is securely fastened so as to prevent said covering or load from becoming loose, detached, or in any manner a hazard to other users of the highway.

(Formerly § 12-506; Ref. W.Va. Code § 17C-17-6)

§ 12C-1706a. Vehicles transporting compressed gas containers.

It is unlawful for any person operating a vehicle transporting any container of compressed gas as a cargo or part of a cargo upon a street or highway of this town in an open motor vehicle to transport a container designed to receive a valve protection cap that is unsecured, uncapped or that has a gauge attached: Provided, That propane gas used for household use shall be exempt.

(Ref. W.Va. Code § 17-6a)

§ 12C-1707. Trailers and towed vehicles.

(a) When one vehicle is towing another the drawbar or other connection shall be of sufficient strength to pull all weight towed thereby and said drawbar or other connection shall not exceed fifteen feet from one vehicle to the other except the connection between any two vehicles transporting poles, pipe, machinery, or other objects of structural nature which cannot readily be dismembered.

(b) When one vehicle is towing another and the connection consists of a chain, rope, or cable, there shall be displayed upon such connection a white flag or cloth not less than twelve inches square.

(Formerly § 12-507; Ref. W.Va. Code § 17C-17-7)

§ 12C-1708. Single-axle load limit.

(a) The gross weight imposed on the highway by the wheels of any one axle of a vehicle shall not exceed twenty thousand pounds.

(b) For the purpose of this chapter an axle load shall be defined as the total load transmitted to the road by all wheels whose centers are included between two parallel transverse vertical planes forty inches apart, extending across the full width of the vehicle.

(Formerly § 12-508; Ref. W.Va. Code § 17C-17-8)

§ 12C-1708a. Tandem-axle load limit.

(a) The gross weight imposed on the highway by the wheels of a tandem-axle of a vehicle shall not exceed thirty-four thousand pounds.

(b) For the purpose of this chapter a tandem-axle load shall be defined as the total load transmitted to the road by two or more consecutive axles whose centers may be included between parallel transverse vertical planes spaced more than forty inches and not more than ninety-six inches apart, extending the full width of the vehicle.

(Formerly § 12-509; Ref. W.Va. Code § 17C-17-8a)

§ 12C-1709. Gross weight of vehicles and loads.

(a) It shall be unlawful for any owner, lessee or borrower of a vehicle or combination of vehicles to operate on any highway such vehicle or combination of vehicles with a gross weight in excess of the gross weight for which such vehicle or combination of vehicles is registered or in excess of any weight limitation set forth in this title, whether such limitation be specifically stated in this title or set by express authority granted in this title.

(b) Subject to the limit upon the weight imposed upon the highway through any one axle as set forth in § 12C-1708 of this chapter, or the limit imposed upon the highway through any tandem-axle as set forth in § 12C-1708a of this chapter, the total gross weight with load imposed upon the highway by any one group of two or more consecutive axles of a vehicle or combination of vehicles shall not exceed the gross weight given for the respective distance

between the first and last axle of the total group of axles measured longitudinally to the nearest foot as set forth in the following table:

Distance in feet between the extremes of any groups of two or more consecutive axles	Maximum load in pounds carried on any group of two or more consecutive axles				
	2 axles	3 axles	4 axles	5 axles	6 axles
4	34000				
5	34000				
6	34000		34000		
8	34000	34000			
9	39000	42500			
10	40000	43500			
11		44000			
12		45000	50000		
13		45500	50500		
14		46500	51500		
15		47000	52000		
16		48000	52500	58000	
17		48500	53500	58500	
18		49500	54000	59000	
19		50000	54500	60000	

Distance in feet between the extremes of any groups of two or more consecutive axles	Maximum load in pounds carried on any group of two or more consecutive axles				
	2 axles	3 axles	4 axles	5 axles	6 axles
20		51000	55500	60500	66000
21		51500	56000	61000	66500
22		52500	56500	61500	67000
23		53000	57500	62500	68000
24		54000	58000	63000	68500
25		54500	58500	63500	69000
26		55500	59500	64000	69500
27		56000	60000	65000	70000
28		57000	60500	65500	71000
29		57500	61500	66000	71500
30		58500	62000	66500	72000
31		59000	62500	67500	72500
32		60000	63500	68000	73000

33				64000	68500	74000
34				64500	69000	74500
35				65500	70000	75000
36				66000	70500	75500
37				66500	71000	76000
38				67500	72000	77000
39			68000 7	44		
	71500	75500	80500			
45				72000	76000	81000
46				72500	76500	81500
47				73500	77500	82000
48				74000	78000	83000
49				74500	78500	83500
50				75500	79000	84000
51				76000	80000	84500
52				76500	80500	85000
53				77500	81000	86000
54				78000	81500	86500
55				78500	82500	87000
56				79500	83000	87500
57				80000	83500	88000
58					84000	89000
59					85000	89500
60					85500	90000

Provided, That no vehicle or combination of vehicles shall have a gross weight, including the load, in excess of sixty-five thousand pounds, except that the maximum gross weight of vehicles operating on the national system of interstate and defense highways and any highway providing reasonable access to and from terminals and facilities for food, fuel, repairs and rest within the State shall not be in excess of eighty thousand pounds and except as otherwise provided in this chapter. Notwithstanding the limits prescribed in subsection (b) of this section, two consecutive sets of tandem-axles may carry a gross load of thirty-four thousand pounds each providing the overall distance between the first and last axles of such consecutive sets of tandem-axles is thirty-six feet or more: Provided, however, That no maximum weight in excess of or in conflict with any weight limitations prescribed by or pursuant to any act of Congress shall be permitted on the national system of interstate and defense highways.

(Formerly § 12-510; Ref. W.Va. Code § 17C-17-9)

§ 12C-1710. Officers may weigh, measure, etc., vehicles and require removal or rearrangement of excess loads.

(a) Any police officer of Shepherdstown may require the driver of any vehicle or combination of vehicles on any highway within the town to stop and submit such vehicle or combination of vehicles to a weighing with portable or stationary weighing devices or submit such vehicle or combination of vehicles to a measuring or to any other examination necessary to

determine if such vehicle or combination of vehicles is in violation of any of the provisions of this chapter, and may require that such vehicle or combination of vehicles be driven to the nearest weighing device, but only if such weighing device is within two miles of the place where the vehicle or combination of vehicles is stopped.

No police officer may stop a vehicle or combination of vehicles for weighing unless a portable or stationary weighing device is actually present at the location where, and at the time, the vehicle or combination of vehicles is stopped or unless the vehicle or combination of vehicles is escorted immediately after being stopped to a portable or stationary weighing device. In no case may a vehicle or combination of vehicles be detained more than one hour from the time the same is stopped for weighing unless the vehicle or combination of vehicles is impounded for a violation in accordance with the provisions of § 12C-1714 of this chapter.

(b) Whenever an officer determines that a vehicle or combination of vehicles is in violation of any of the provisions of this chapter, he may require the driver to stop such vehicle or combination of vehicles in a suitable place and to remain standing until such vehicle or combination of vehicles is brought into conformity with the provisions violated.

In the case of a weight violation all material unloaded shall be cared for by the owner, lessee or borrower of such vehicle or combination of vehicles at the risk of such owner, lessee or borrower: Provided, That no criminal charge shall be preferred against any driver, operator or owner of a vehicle when a rearrangement of the load upon the vehicle, without removal therefrom, reduces the axle loads of said vehicle to such limit as is permitted under this title.

(c) Any driver of a vehicle or combination of vehicles who fails or refuses to comply with any requirement or provision of this section shall be guilty of a misdemeanor.
(Formerly § 12-511; Ref. W.Va. Code § 17C-17-10)

§ 12C-1711. Reserved.

(Ref. W.Va. Code § 17C-17-11)

§ 12C-1711a. Reserved.

(Ref. W.Va. Code § 17C-17-11a)

§ 12C-1711b. Reserved.

(Ref. W.Va. Code § 17C-17-11b)

§ 12C-1711c. Reserved.

(Ref. W.Va. Code § 17C-17-11c)

§ 12C-1712. The Corporation of Shepherdstown may restrict right to use highway.

(a) The Corporation of Shepherdstown, with respect to streets and highways within the town, may by ordinance or resolution prohibit the operation of vehicles upon any such street or highway or impose restrictions as to the weight of vehicles to be operated upon any such street or

highway, for a total period of not to exceed ninety days in any one calendar year, whenever any said street or highway by reason of deterioration, rain, snow, or other climatic conditions will be seriously damaged or destroyed unless the use of vehicles thereon is prohibited or the permissible weights thereof reduced.

(b) The Corporation of Shepherdstown shall erect or cause to be erected and maintained signs designating the provisions of the ordinance or resolution at each end of that portion of any street or highway affected thereby, and the ordinance or resolution shall not be effective unless and until such signs are erected and maintained.

(c) The Corporation of Shepherdstown may also, by ordinance or resolution, prohibit the operation of trucks or other commercial vehicles, or may impose limitations as to the weight thereof, on designated streets or highways, which prohibitions and limitations shall be designated by appropriate signs placed on such streets or highways.

(Ref. W.Va. Code § 17C-17-12)

§ 12C-1713. Liability for damage to highway or structure.

(a) The owner, lessee or borrower of any vehicle, object, or contrivance driven or moved upon any highway or highway structure shall be liable for all damage which said highway or structure may sustain as a result of any illegal operation, driving, or moving of such vehicle, object, or contrivance, or as a result of operating, driving, or moving any vehicle, object, or contrivance weighing in excess of the maximum weight in this title but authorized by a special permit issued as provided in § 17C-17-11 of the West Virginia Code.

(b) Such damage may be recovered in civil action brought by the authorities in control of such highway or highway structure.

(Formerly § 12-512; Ref. W.Va. Code § 17C-17-13)

§ 12C-1714. Penalties for violation of weight laws; impounding vehicles.

Any owner, lessee or borrower of a vehicle or combination of vehicles who operates or permits to be operated on any highway such vehicle or combination of vehicles with any axle load in excess of that permitted by §§ 12C-1708 and 12C-1708a of this chapter, or with a total gross weight with load imposed upon the highway by any one group of two or more consecutive axles in excess of that permitted by § 12C-1709 of this chapter or § 17C-17-11a of the West Virginia Code, shall be guilty of a misdemeanor, and, upon conviction thereof, shall be punished by a fine scheduled in proportion to the amount of pounds in excess of the registered weight, or in excess of allowable weights for single axle, or in excess of allowable weights for groups of two or more consecutive axles, in accordance with the schedule in words and figures as follows:

Pounds in excess of registered weight, or in excess of allowable weights for single axle, or in excess of allowable weights for groups of two or more consecutive axles.

Amount

	of Fine			
1 to 4,000.....	\$ 20.00			
4,001 to 5,000.....	\$ 25.00			
5,001 to 6,000.....	\$ 60.00			
6,001 to 7,000.....	\$ 70.00			
7,001 to 8,000.....	\$ 80.00	80.00	8,001	to
9,000.....	\$ 90.00			
9,001 to 10,000.....	\$ 100.00			
10,001 to 11,000.....	\$ 165.00			
11,001 to 12,000.....	\$ 180.00			
12,001 to 13,000.....	\$ 195.00			
13,001 to 14,000.....	\$ 210.00			
14,001 to 15,000.....	\$ 225.00			
15,001 to 16,000.....	\$ 320.00			
16,001 to 17,000.....	\$ 340.00			
17,001 to 18,000.....	\$ 360.00			
18,001 to 19,000.....	\$ 380.00			
19,001 to 20,000.....	\$ 400.00			
20,001 to 21,000.....	\$ 525.00			
21,001 to 22,000.....	\$ 550.00			
22,001 to 23,000.....	\$ 575.00			
23,001 to 24,000.....	\$ 600.00			
24,001 to 25,000.....	\$ 625.00			
25,001 to 26,000.....	\$ 780.00			
26,001 to 27,000.....	\$ 810.00			
27,001 to 28,000.....	\$ 840.00			
28,001 to 29,000.....	\$ 870.00			
29,001 to 30,000.....	\$ 900.00			
30,001 to 40,000.....	\$ 1,200.00			
40,001 to 50,000.....	\$ 1,400.00			
50,001 and over.....	\$ 1,600.00			

In the event any owner, lessee or borrower of a vehicle is charged with violating this section, the vehicle which is charged to be overloaded shall be impounded by the arresting officer and shall not be released to such owner, lessee or borrower unless and until such owner, lessee or borrower either shall have been found guilty and paid any fine assessed against such owner, lessee or borrower, or shall have furnished cash or surety bond in at least double the amount of the fine which may be assessed against such owner, lessee or borrower for such violation of this section and conditioned upon the payment of any such fine and costs assessed for such violation, or shall have been acquitted of such charge. Such owner, lessee or borrower shall be liable for any reasonable storage costs incurred in storing such vehicles: Provided, That if the owner of such vehicle is a resident of or has a principal place of business located in this State, and said vehicle has been duly licensed in the State, then said vehicle shall not be impounded but the arresting officer shall deliver to the driver a written notice stating such

violation; the place, date and time; the license number of said vehicle; the title number and name and address of the owner; the driver's name, address, and the number of his operator's or chauffeur's card or permit; and the court, place, date and time for hearing, which shall be within five days of such violation (Saturdays, Sundays, and holidays, excluded). A copy of such notice shall within forty-eight hours be mailed to the owner of said vehicle. Upon the failure by such owner or his or its agent to appear at the designated place and time, or upon failure to pay the fine and costs assessed for such violation, unless such owner shall have been acquitted of such charge, the court shall order a bond or the impounding of said vehicle as provided in this section.

(Formerly § 12-513; Ref. W.Va. Code § 17C-17-14)

CHAPTER 18
PENALTIES.

§ 12C-1801. Violations of title; penalties for misdemeanor.

(a) It is a misdemeanor for any person to violate any of the provisions of this title unless such violation is by this title or other law of this State declared to be a felony.

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

(Formerly § 12-1101; Ref. W.Va. Code § 17C-18-1)

CHAPTER 19
PARTIES, PROCEDURE UPON ARREST AND REPORTS IN CRIMINAL
CASES.

§ 12C-1901. Parties to a crime.

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

(Formerly § 12-801; Ref. W.Va. Code § 17C-19-1)

§ 12C-1902. Offenses by persons owning or controlling vehicles; owner present in vehicle to be arrested rather than driver for certain traffic violations.

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

If the owner of a motor vehicle is present in the vehicle at a time when another driver is operating the vehicle upon the streets or highways of this town: (1) With defective or improper equipment in violation of the provisions of § 12C-1501 et seq. of this title; (2) in violation of the weight, height, length or width provisions of § 12C-1701 et seq. of this title; (3) with improper registration in violation of the provisions of § 17A-3-1 et seq. of the West Virginia Code; or (4) with an expired vehicle inspection decal or certificate in violation of the provisions of § 12C- 1601 et seq. of this title, the owner rather than the driver shall be arrested for any violation enumerated herein in lieu of an arrest of the driver. If the owner of the vehicle is not present therein, then the driver shall be arrested for any violation enumerated in this section.

(Formerly § 12-802; Ref. W.Va. Code § 17C-19-2)

§ 12C-1903. When person arrested must be taken immediately before a magistrate or court.

(a) Whenever any person is arrested for any violation of this title punishable as a misdemeanor, the arrested person shall be immediately taken before the Shepherdstown Municipal Court Judge, a magistrate or court within the county in which the offense charged is alleged to have been committed and who has jurisdiction of the offense and is nearest or most accessible with reference to the place where the arrest is made, in any of the following cases:

1. When a person arrested demands an immediate appearance before a magistrate or court;
2. When the person is arrested upon a charge of negligent homicide;
3. When the person is arrested upon a charge of driving while under the influence of alcohol, or under the influence of any controlled substance, or under the

influence of any other drug, or under the combined influence of alcohol and any controlled substance or any other drug;

4. When the person is arrested upon a charge of failure to stop in the event of an accident causing death, personal injury or damage to property;
5. When the person is arrested upon a charge of violating § 12C-1714 of this title relating to weight violations, except as otherwise provided in that section;
6. When the person arrested is a resident of a state that has not entered into a nonresident violator compact with this State;
7. In any other event when the person arrested refuses to give his written promise to appear in court as provided in § 12C-1904 of this chapter.

(b) When the person arrested is a resident of a state that has entered into a nonresident violator compact with this State, the arresting officer shall issue the person a written notice as provided for in § 12C-1904 of this chapter and may not take the person immediately before the Shepherdstown Municipal Court Judge, magistrate or court, except under the terms of the compact or under the circumstances set forth in subsection (a) of this section.

(Ref. W.Va. Code § 17C-19-3)

§ 12C-1904. When person arrested to be given five days' notice to appear in court.

(a) Whenever a person is arrested for any violation of this title punishable as a misdemeanor, and such person is not immediately taken before the Shepherdstown Municipal Court Judge, a magistrate or court as hereinbefore required, the arresting officer shall prepare written notice to appear in court containing the name and address of such person, the license number of his vehicle, if any, the offense charged, and the time and place when and where such person shall appear in court.

(b) The time specified in said notice to appear must be at least five days after such arrest unless the person arrested shall demand an earlier hearing.

(c) The place specified in said notice to appear must be before the Shepherdstown Municipal Court Judge, or a magistrate who has jurisdiction of such offense.

(d) The arrested person in order to secure release, as provided in this section, must accept a copy of the written notice prepared by the arresting officer. The officer shall deliver a copy of the notice to the person promising to appear. Thereupon, said officer shall forthwith release the person arrested from custody.

(Ref. W.Va. Code § 17C-19-4)

§ 12C-1905. Procedure prescribed by chapter not exclusive.

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

(Ref. W.Va. Code § 17C-19-5)

§ 12C-1906. Form for and records of books of traffic citations.

(a) The Shepherdstown Police Department shall provide in appropriate form approved by the commissioner of motor vehicles, the superintendent of the West Virginia state police and the West Virginia commissioner of the division of highways, traffic citations containing notices to appear which shall be issued in books with citations in quadruplicate and meeting the requirements of this chapter.

(b) The Shepherdstown Chief of Police shall be responsible for the issuance of such books and shall maintain a record of every such book and each citation contained therein issued to individual members of the Shepherdstown Police Department and shall require and retain a receipt for every book so issued.

(Ref. W.Va. Code § 17C-19-6)

§ 12C-1907. Disposition and records of traffic citations.

(a) Every traffic-enforcement officer upon issuing a traffic citation to an alleged violator of any provision of the motor vehicle laws of this State or of any traffic ordinance of Shepherdstown shall deposit the original or a copy of such traffic citation with a court having jurisdiction over the alleged offense.

(b) Upon the deposit of the original or a copy of such traffic citation with a court having jurisdiction over the alleged offense, said original or copy of such traffic citation may be disposed of only by trial in said court or other official action by a judge of said court, including forfeiture of the bail or by the deposit of sufficient bail with or payment of a fine to said Court by the person to whom such traffic citation has been issued by the traffic-enforcement officer.

(c) It shall be unlawful and official misconduct for any traffic-enforcement officer or other officer or public employee to dispose of a traffic citation or copies thereof or of the record of the issuance of the same in a manner other than as required herein.

(d) The Shepherdstown Chief of Police shall require the return to him of a copy of every traffic citation issued by an officer under his supervision to an alleged violator of any traffic law or ordinance and of all copies of every traffic citation which has been spoiled or upon which any entry has been made and not issued to an alleged violator.

(e) The Shepherdstown Chief of Police shall also maintain or cause to be maintained in connection with every traffic citation issued by an officer under his supervision a record of the disposition of the charge by the court in which the original or copy of the traffic citation was deposited.

(Ref. W.Va. Code § 17C-19-7)

§ 12C-1908. Record of traffic cases.

The Judge of the Municipal Court shall keep or cause to be kept a record of every traffic complaint, or other legal form of traffic charge deposited with or presented to said court, and shall keep a record of every official action by said court in reference thereto, including but not

limited to a record of every conviction, forfeiture of bail, judgment of acquittal, and the amount of fine or forfeiture resulting from every said traffic complaint deposited with or presented to said court.

(Ref. W.Va. Code § 17C-19-8)

§ 12C-1909. Jurisdiction of crimes by magistrates.

Magistrates shall have concurrent jurisdiction with the municipal court to enforce the misdemeanor penalties prescribed by this title.

(Ref. W.Va. Code § 17C-19-9)

§ 12C-1910. Guaranteed arrest bond certificates as cash bail.

Any guaranteed arrest bond certificate of any surety company licensed to do business by the insurance commissioner, shall, when presented by the person whose signature appears thereon, be accepted in lieu of cash bail in an amount not to exceed five hundred dollars, as a bail bond, to guarantee the appearance of such person in any court, or before any magistrate, mayor, or municipal judge in this town, at such time as may be required by the court, magistrate, mayor or municipal judge, when such person is arrested for violation of any motor vehicle law of this State or traffic ordinance of Shepherdstown (except for the offenses of reckless driving, driving while intoxicated or for any felony) committed prior to the date of expiration shown on such guaranteed arrest bond certificate: Provided, That any such guaranteed arrest bond certificate so presented as a bail bond in any court in this State shall be subject to the same forfeiture and enforcement provisions as any other bail bond.

The term “guaranteed arrest bond certificate,” as used herein, means any printed card or other certificate issued by an automobile club or association to any of its members, which said card or certificate is signed by such member and contains a printed statement that such automobile club or association and a surety company guarantee the appearance of the person whose signature appears on the card or certificate and that they will in the event of failure of said person to appear in court at the time of trial, pay any fine or forfeiture imposed on such person in an amount not to exceed five hundred dollars.

(Ref. W.Va. Code § 17C-19-10)

CHAPTER 20
LOCAL TRAFFIC PROVISIONS

§ 12C-2001. Blood tests for alcohol in drivers and adult pedestrians killed in motor vehicle accidents.

When any motor vehicle driver or adult pedestrian dies in a motor vehicle accident in this Town or dies within four hours after having been involved in a motor vehicle accident in this Town, the physician in attendance, or law-enforcement officer having knowledge of such death, or the funeral director, or any other person present when such death occurred, shall immediately report such death to the medical examiner of the county in which such death occurred. Upon receipt of such notice, the medical examiner shall take charge of the dead body and shall conduct, or shall cause to be conducted, within twelve hours after receiving such notice and before the dead body is embalmed, a blood test to determine the presence and percentage concentration of alcohol in the blood of such dead body.

(Ref. W.Va. Code § 17C-5B-1)

§ 12C-2002. Parking privileges and “No Parking Spaces”.

(a) Parking privileges and spaces designated as “no parking spaces” may be granted upon consent of the Council of the Town of Shepherdstown and when granted must be definitely marked. No person may, without the consent of the council, designate the space bordering along and parallel with the streets, alleys and highways of the Town of Shepherdstown as “no parking spaces.”

(b) Parking privileges upon the streets, alleys and highways of the Town of Shepherdstown may be temporarily suspended by any police officer in time of unusual congestion, but only upon the placement of official signs in conspicuous places upon said street, alley or highway sufficient to give timely notice of the temporary suspension of said privilege, to the recipient of such a privilege or upon the giving of oral or written notice to each affected individual recipient of such privilege, and the owner or person in charge of any vehicle parked in designated parking area.

(c) If the owner or person in charge of any vehicle shall fail or neglect to remove such vehicle before or between the time specified on the sign, or by the time specified in the oral or written notice he shall be guilty of a misdemeanor.

(Formerly § 12-341)

§ 12C-2003. Blind pedestrians.

Whenever a pedestrian is crossing or attempting to cross a public street or highway, at or near an intersection 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.

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 town be held to constitute or be evidence of contributory negligence.

(Formerly § 12-606)

§ 12C-2004. Unlawful opening of doors.

It shall be unlawful for any person to open the door of any vehicle parked in any street of the town in such a manner as to interfere with the lawful use of the other vehicle.

(Formerly § 12-901)

§ 12C-2005. Using streets for sale of automobiles.

It shall be unlawful for any person to use the street of the town for the habitual storage or parking of salable automobiles or other vehicles, and any continuous placing of such vehicles on the street of the town, without adequate license tags, from day to day shall constitute an offense within the meaning of this section.

(Formerly § 12-902)

§ 12C-2006 Operation of All-Terrain Vehicles Upon the Streets of the Town; Exceptions.

(a) It shall be unlawful for any person to operate an all-terrain vehicle, as defined in subsection (b) of this section, upon the streets, highways and residential streets within the town, except as provided by subsection (c) of this section.

(b) "All-terrain vehicle" (ATV) means 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.

(c) The Town Council may issue temporary permits to authorize certain persons to operate an all-terrain vehicle upon the streets, highways and residential streets within the town, during emergency weather conditions. Such permits may be issued to emergency fire and rescue personnel, health care providers, members of the Shepherdstown Police Department, members of the public works department and to other persons whom the Town Council deems necessary for the public's safety and welfare.

§ 12C-2008 Immobilization of certain vehicles; notice; impoundment; penalty.

(d). Penalty. The owner or person responsible for any vehicle which has been immobilized shall, in addition to other fines and penalties provided for under the

provisions of the Town Code, be subject to a fine of \$100.00.

CHAPTER 21
EFFECT OF CHAPTER.

§ 12C-2101. Constitutionality.

If any part or parts of this title shall be held to be unconstitutional such unconstitutionality shall not affect the validity of the remaining parts of this title. The Town Council hereby declares that it would have passed the remaining parts of this title if it had known that such part or parts thereof would be declared unconstitutional.

(Formerly § 12-1102; Ref. W.Va. Code § 17C-21-1)

CHAPTER 22
RIDESHARING

§ 12C-2201. Ridesharing arrangement defined.

“Ridesharing arrangement” means the transportation of persons in a motor vehicle where such transportation is incidental to another purpose of the driver and is not for profit, or is by nonprofit community organizations and nonprofit corporations for senior citizens or handicapped persons. The term shall include but not be limited to ridesharing arrangements known as carpools, vanpools and buspools.

(Ref. W.Va. Code § 17C-22-1)

§ 12C-2202. Common carrier laws do not apply to ridesharing.

The sections of Title 12C of The Code of the Town of Shepherdstown with equipment requirements and special accident reporting requirements that are specifically applicable to common carriers or commercial vehicles shall not apply to any ridesharing arrangement using a motor vehicle with a seating capacity for not more than fifteen persons, including the driver.

(Ref. W.Va. Code § 17C-22-2)

§ 12C-2203. Reserved.

§ 12C-2204. Reserved

§ 12C-2205. Reserved

§ 12C-2206. Reserved.

§ 12C-2207. Certain ridesharing vehicles are not buses.

A motor vehicle used in a ridesharing arrangement that has a seating capacity for not more than fifteen persons, including the driver, shall not be a “bus” for purposes of equipment requirements or rules of the road.

(Ref. W.Va. Code § 17C-22-7)

CHAPTER 23
FUNERAL PROCESSIONS.

§ 12C-2301. Definitions.

(a) “Funeral director” and “funeral establishment” have the same meaning as set forth in § 30-6-4 of the West Virginia Code.

(b) “Funeral procession” means two or more vehicles accompanying the body of a deceased person, or traveling to the church, chapel, cemetery or other location at which the funeral service or final disposition is to be held, including a funeral lead vehicle or a funeral escort vehicle.

(c) “Funeral lead vehicle” means any authorized law enforcement or nonlaw-enforcement motor vehicle or a funeral escort vehicle being used to lead and facilitate the movement of a funeral procession. A funeral hearse may serve as a funeral lead vehicle.

(d) “Funeral escort” means a person or entity that provides escort services for funeral processions, including law-enforcement personnel and agencies.

(e) “Funeral escort vehicle” means any motor vehicle that escorts a funeral procession.

(Formerly § 12-903; Ref. W.Va. Code § 17C-23-1)

§ 12C-2302. Funeral procession right-of-way; funeral escort vehicles; funeral lead vehicles.

(a) Regardless of any traffic control device or right-of-way provisions prescribed by state or local ordinance, pedestrians and operators of all vehicles, except as stated in subsection (c) of this section, shall yield the right-of-way to any vehicle which is part of a funeral procession being led by a funeral escort vehicle or a funeral lead vehicle.

(b) When the funeral lead vehicle lawfully enters an intersection, either by reason of a traffic control device or at the direction of law-enforcement personnel, the remaining vehicles in the funeral procession may follow through the intersection regardless of any traffic control devices or right-of-way provisions prescribed by state or local law.

(c) Funeral processions have the right-of-way at intersections regardless of traffic control devices subject to the following conditions and exceptions:

1. Operators of vehicles in a funeral procession shall yield the right-of-way to an approaching emergency vehicle giving an audible or visible signal;

2. Operators of vehicles in a funeral procession shall yield the right-of-way when directed to do so by a police officer; and

3. Operators of vehicles in a funeral procession must exercise due care when participating in a funeral procession.

(Formerly § 12-903; Ref. W.Va. Code § 17C-23-2)

§ 12C-2303. Driving in procession.

a) All vehicles comprising a funeral procession shall follow the preceding vehicle in the funeral procession as closely as is practical and safe.

(b) Any ordinance, law or rule stating that motor vehicles shall be operated to allow sufficient space enabling any other vehicle to enter and occupy such space without danger is not applicable to vehicles in a funeral procession.

(Formerly § 12-903; Ref. W.Va. Code § 17C-23-3)

§ 12C-2304. Liability.

Liability for any death, personal injury or property damage suffered by any person in a funeral procession may not be imposed upon a funeral director or funeral establishment or their employees or agents unless the death, personal injury or property damage is proximately caused by the negligent or intentional act of a funeral director or funeral establishment or their employees or agents.

(Formerly § 12-903; Ref. W.Va. Code § 17C-23-4)

§ 12C-2305. Equipment.

All nonlaw-enforcement funeral escort vehicles and funeral lead vehicles may be equipped with at least one lighted circulation flashing lamp exhibiting an amber or purple light or lens. Flashing amber or purple lights may be used when such vehicles are used in a funeral procession.

(Formerly § 12-903; Ref. W.Va. Code § 17C-23-5)