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Revisions

Building Commission Established 1-20-2020

Ordinance Retitling Chapters 1 & 2 and Incorporating the  
Nondiscrimination Ordinance Passed 2-4-20

## CHAPTER I     ADMINISTRATION OF THE TOWN OF ATHENS

### 101 General Information

Article 101.01 Incorporation

Article 101.02 Form of Government (WVC 8-2-3)

Article 101.03 Power of the Town (WVC 8-3-1 8-12-5)

#### 101.01 Incorporation

The inhabitants of the Town of Athens, Mercer County, West Virginia, within the corporate limits delineated in the Incorporation of the Town of Athens, registered on Monday the 6th day of August, 1906, shall continue to be a municipal politic and corporate in perpetuity, under the name of "Town of Athens." Adopted 1/6/2004

#### 101.02 Form of Government

The municipal government provided by this Article shall be known as "Mayor-Council Plan." Under this plan (1) there shall be a town council composed of five (5) elected persons, a mayor, and a recorder, elected at large.

The Mayor and council shall be the governing and administrative authority.

The council shall enact ordinances, adopt budgets, authorize all expenditures, enter into all contracts and determine policies subject only to the limitations imposed by the State Constitution and the general laws of the State. Adopted 1/6/2004

#### 101.03 Powers of the Town

When not otherwise provided by the West Virginia Constitution of state law, the government of the Town of Athens shall have the following powers and duties:

1. Provide for the general administration of the Town;
2. Provide regulations for the health and safety of the inhabitants of the Town;
3. Provide and care for the streets and sidewalks of the Town;
4. Control the traffic;
5. Control the building and housing in the Town
6. Provide for land use zoning;
7. Provide public utilities. Adopted 1/6/2004

## 103.00 Powers, Duties, and Allied Relations of Administration

- 103.01 Terms of Office
- 103.02 Compensation of Officers
- 103.03 Powers and Duties of Mayor
- 103.04 Powers and Duties of Council
- 103.05 Powers and Duties of Recorder (WVC 8-10-1 8-10-3)

### 103.01 Terms of Office

The mayor, recorder, and council persons shall enter upon the duties of their respective offices on the first day of July next after their election, and their terms of office shall be for a period of two (2) years or until their successors are elected and qualified. The terms will be staggered so that the Mayor and two (2) council persons will be elected on odd numbered years, while the Recorder and three (3) council persons will be elected on even numbered years. Adopted 1/6/2004

### 103.02 Compensation of Officers

Elected officials of the town are to be compensated as follows:

1. Mayor \$1,200 per year for person elected prior to June, 2002 \$2,000 per year for person elected after June, 2002
2. Recorder \$400 per year
3. Council person \$100 per year for those elected prior to June, 2002 \$10 per meeting for those elected post June, 2002

Funds for payments are to be taken from the general, water, and sewer accounts in a ratio as approved by the council in the yearly budget preparation process. Adopted 1/6/2004

### 103.03 Powers and Duties of the Mayor

The Mayor shall be the chief executive officer of the municipality, shall have the power and authority granted in this section and shall see that the ordinances, orders, bylaws, acts, resolutions, rules, and regulations of the governing body thereof are faithfully executed. The mayor shall have jurisdiction to hear and determine any and all alleged violations thereof and to convict and sentence persons therefore.

Upon complaint, the mayor shall have authority to issue a search warrant in connection with the violation of a municipal ordinance. Any search warrant, warrant of arrest or other process issued by the mayor may be directed to any member of the police department. The same may be executed at any place within the county or counties in which the municipality is located.

The Mayor shall have control of the police of the municipality and may appoint special police officers whenever he deems it necessary, except when otherwise provided by law, and subject to the police civil service provision of the West Virginia Code.

The Mayor shall see that the peace and good order of the town are preserved, and that persons and property therein are protected; and to this end may cause the arrest and detention of all riotous and disorderly individuals in the town before issuing the warrant therefore.

The Mayor shall have power to issue executions for all fines, penalties, and costs imposed or may require the immediate payment thereof, and in default of such payment, he may commit the party in default to the Mercer County jail, or other place of imprisonment with the corporate limits or county until the fine or penalty and costs shall be paid, but the term of imprisonment in such case shall not exceed thirty (30) days.

The Mayor shall, from time to time, recommend to the town council such measures as he may deem needful for the welfare of the town.

The Mayor shall be the presiding officer of the Town Council. The Mayor shall have financial responsibilities as outlined in Article 115. He shall be ultimately responsible to the council for final approval of all financial matters. Adopted 1/6/2004

#### **103.04 Powers and Duties of Council**

The governing body of the Town of Athens is the Athens Town Council, hereafter referred to as The Council. The Council shall establish all policies of the Town and, as provided in the West Virginia Code 8-12-5, et seq., establish ordinances in support thereof.

All taxes, rates, fees, miscellaneous charges, or applications to regulating agencies for changes thereto and where required the effective dates, shall be approved by The Council prior to their establishment.

The Council shall make prior approval of all financial obligations made by any agent or employee of the Town. This approval may be extended by approval of a budget or by other means, as The Council sees fit.

The Council shall audit and approve, before payment, all bills, invoices, payrolls and other compensation of all employees - full time, part time, contractual or otherwise - of the Town. Adopted 1/6/2004

### 103.05 Power and Duties of Recorder

It shall be the duty of the Recorder of the Town to keep the journal of proceedings of the Town Council and to preserve the records of the Town.

The Recorder shall cause to be kept, in a well-bound book, an accurate record of all proceedings, bylaws, acts, orders, and resolutions that shall be fully indexed and open to the inspection of anyone who is required to pay taxes to the Town. In the absence of the Mayor, the Recorder shall serve as Acting Mayor. Adopted 1/6/2004

## 105 Meetings of the Council

- 105.01 Meeting Times
- 105.02 Quorum Article
- 105.03 Duty to Attend Article
- 105.04 Vacancies
- 105.05 Rules of Procedure
- 105.06 Order of Proceedings

### 105.01 Meeting Times

The meetings of the Council shall be publicly held on the first and third Tuesday of every month at 7:00 PM at the Town Hall with the exception of holidays or emergencies. In such instances, the meeting will be held on the next Tuesday after the holiday or emergency. Special meetings may be called by the Mayor, or in his/her absence, the Recorder, subject to the laws of the State to conduct special business. Notice of special meetings shall be given to each member of the Council. Adopted 1/6/2004

### 105.02 Quorum

The presence of the Mayor or Acting Mayor and three (3) members of the council shall be necessary to make a quorum for the transaction of business at all meetings of the council of said town. No member of the council shall vote upon any order, measure, resolution or proposition in which he/she may be interested other than as a citizen of said town. The Mayor and Recorder shall have votes as members of the council. Unless set forth specifically elsewhere in these ordinances, a majority vote of quorum shall constitute approval of The Council on any issue.

### 105.03 Duty to Attend

It shall be the duty of the Mayor, and each member of the Town council, to attend each meeting of Council, regular or special. If any member does not attend such meetings for two consecutive months, without previous approval of the Council, that seat shall be considered vacant.

Adopted 1/6/2004

### 105.04 Vacancies

If a vacancy occurs, the Council shall, by a majority vote of the remaining members, appoint any qualified person to fill the unexpired term. This procedure shall also apply to a vacancy in the position of Major or Recorder, chosen preferably from current council members. Adopted 1/6/2004

### 105.05 Rules of Procedure

The rules of parliamentary usage comprised in "Robert's Rules of Order, by Col. Henry R. Robert," shall govern Council meetings. The council may temporarily suspend any of its rules by a majority vote. Adopted 1/6/2004

### 105.06 Order of Proceedings

1. Call to Order
2. Reading of the minutes the last meeting and all special meetings conducted since the last meeting. Minutes are to be corrected, if erroneous, and signed by the Mayor and Recorder.
3. Public hearings or public discussion
4. Special agenda as prepared for the meeting
5. Miscellaneous and unfinished business
6. Reports from town officers
7. Old Business
8. New Business
9. Action on Accounts
10. Adjournment

## 107 Elections

- 107.01 Voters
- 107.02 Candidates
- 107.03 Election
- 107.04 Poll Workers
- 107.05 Certification of Results
- 107.06 Contested Elections
- 107.07 Oaths of Office
- 107.08 Terms of Office



## 107.01 Voters

### Eligibility of Voters

To be eligible to vote in municipal elections, a voter must be a registered voter in the State of West Virginia and must have been a resident of the Town for thirty (30) days prior to the election.

### Registration of Voters

All voters shall be registered in accordance with the "Permanent Registration System," as provided by the laws of the State of West Virginia. Adopted 1/6/2004

## 107.02 Candidates for Election

### Eligibility

The candidates for Mayor, Recorder, and Councilpersons must be residents of the Town of Athens, and be eligible to register to vote in the municipal election of the Town of Athens. To be an eligible candidate, the person must have been assessed with paid taxes upon at least \$100 worth of real and/or personal property therein.

### Filing Dates

The deadline for filing as a candidate for election shall be the first Tuesday in April (70 days or 10 weeks prior to the election). The Recorder shall publish notice of the filing date in the principal local newspaper in the form of a class 1 legal advertisement and shall post notice of the same at the Town Hall. Candidates shall file by appearing at the Town Hall before the Recorder or the town clerk. A filing fee of one dollar (\$1.00) shall be charged. Candidates may file for only one office. Within five (5) days after the deadline, the Recorder shall post, at the Town Hall, a list of the candidates, without party affiliations, for each office. Adopted 1/6/2004

## 107.03 Election

Elections shall be held on the second Tuesday of June between 6:00 AM and 7:00 PM. Voting shall be conducted in conformance with the election laws of the State of West Virginia. The Town Council shall control matters not addressed by State Law. The voting shall be conducted at the Town Hall. Adopted 1/6/2004

## 107.04 Poll Workers

On the first Tuesday of May, the Council shall appoint one (1) poll commissioner, two (2) poll clerks, and two (2) alternates. The commission and clerks shall be at the polls at least fifteen (15) minutes before opening and remain until the votes are counted, tabulated, and posted. Each shall be paid fifty (\$50.00) for this work. After appointment, and at least seven (7) days prior to the election, each commissioner and poll clerk must attend a training session at the least seven (7) days prior to the election; each commissioner and poll clerk must attend a training session at the time designated by the Recorder. Adopted 1/6/2004

### 107.05 Certification of Results of Election

The results of every election held within the Town of Athens shall be returned and finally determined under the laws in force in this State relating to general elections, except that the persons conducting said election, shall, on the date after the election is held, deliver the ballots, tally sheets and poll books to the Recorder. Thereafter, the Council of said town shall meet within five (5) days (Sundays excepted) after said election and canvass the returns of said election, and declare the results thereof, and in all respects comply with the requirements of the statutes of the State relating to elections. The municipal authorities of said town shall perform all duties in relation to such elections as required by the general law in effect on the day of said election. Adopted 1/6/2004

### 107.06 Contested Elections

All contested elections shall be heard and determined by the Council in existence at the time the election is held, and the contest shall be made and conducted in the manner as provided for in "Contests for County Officers." Candidates who are current member of the Council shall not participate. Adopted 1/6/2004

### Article 107.07 Oaths of Office

Within twenty (20) days after the election or appointment and before entering upon the duties of office, each person elected or appointed to an office in said town shall take and subscribe the prescribed oath of office which may be done before any person authorized by law to administer oaths, or before the Mayor or Recorder of said town, which oath, with the certificate of the officer administering the same, shall be filed, recorded and preserved in the Office of the Recorder of the town, and a certified copy of such oath and certified shall be filing and recorded in the Town office. Adopted 1/6/2004

## Article 107.08 Terms of Office

The Mayor, Recorder, and Council persons shall enter upon the duties of their office upon the first day of July next after their election, and their terms of office shall be for a period of two (2) years or until their successors are elected and qualified. Adopted 1/6/2004

## Article 109.00 Employees

### 109.01 Powers of the Town Regarding Employees (WVC 8-5-12)

The Council of the Town shall fix the compensation of every municipal employee. The Council shall have the plenary power and authority to provide for: the allowance of time off for employees, allowance for paid vacations and illnesses, and for personnel management incentives in consideration for their services and employment. The Council shall provide a job description for various positions. Adopted 1/6/2004

### 109.02 Employer Requirements

Grantee shall afford equal opportunity in employment to all qualified persons. No person shall be discriminated against in employment because of real or perceived race, color, religion, national origin, sex, sexual orientation, gender identity, age, disability, marital status, familial status, or veteran status. Grantee shall maintain and carry out a continuing program of specific practices designed to assure equally opportunity in every aspect of its employment policies and practices. Adopted 3-3-2020

## 111.00 Ordinances and Resolutions (WVC 8-11-4)

- 111.01 Reading of Ordinances
- 111.02 Adoption of Ordinances
- 111.03 Content of Ordinances

### 111.01 Reading of Ordinances

A proposed ordinance shall be read by title at not less than two meetings of the Town Council with at least one week intervening between each meeting, unless a member of Council demands that the ordinance be read in full at one or both meetings. If such demand is made, the ordinance shall be read in full as demanded. Adopted 1/6/2004

## 111.02 Adoption of Ordinances

Town Council may adopt by ordinance building codes, housing codes, plumbing codes, sanitary codes, electrical codes, fire prevention codes, traffic codes, or any other technical codes dealing with general public health, safety, or welfare or combination thereof. After adoption of the ordinance, such code or codes shall be certified by the Mayor and shall be filed as permanent records in the Town office. The ordinances shall be compiled in the Record of Ordinances book which shall be available for public inspection. Adopted 1/6/2004

## 111.03 Content of Ordinances

The Town Council shall adopt ordinances to cover the following cases:

1. Levying taxes or providing for the collection of fees
  2. Requiring a license to do business
  3. Relating to offenses and penalties
  4. Authorizing the issuance of bonds or other forms of indebtedness
  5. Providing for public improvement
  6. Providing for the purchase or sale of property
  7. Laying out or vacating public streets or thoroughfares
  8. Relating to planning and zoning
  9. Providing for the administration of the Town
  10. Relating to public utilities
  11. Providing for a contractual or other agreement with another jurisdiction
- Adopted 1/6/2004

## 113.00 Appointive Information

- 113.01 Town Attorney
- 113.02 Planning and Zoning Commission
- 113.03 Building Commission
- 113.04 Park and Recreation Commission

### 113.01 Town Attorney

The Council shall appoint a Town Attorney. The Attorney shall be a duly licensed attorney at law, whose further qualifications shall be prescribed by the Council. The Town Attorney shall advise, assist and represent the Council in and on matters of law. The Attorney shall be compensated on an hourly fee basis. Adopted 1/6/2004

## 113.02 Planning and Zoning Commission

The Planning Commission shall have five (5) members, plus the Mayor being an ex-officio member. These members shall be appointed by the Council for a term of five (5) years each. This commission shall assist the Council in developing plans for improving the Town through orderly development with consideration given to adequate street, utility, health, recreation and environmental facilities; and that residential areas provide healthy surroundings for family life. It shall designate areas of the Town for business and residential zoning and hear petitions for zoning variances. Adopted 1/6/2004

## 113.03 Building Commission Amended 1-20-2020

### 113.03.01 Creation and powers.

There is hereby formed, created, and established a municipal building commission to be known as the Athens Building Commission. In accordance with Chapter 8, Article 33, Section 1 et seq. of the West Virginia Code, 1931, as amended, the commission shall be a public corporation and have perpetual existence; shall have all powers granted by Chapter 8, Article 33, Section 4 of the West Virginia Code; and any other powers granted to it by applicable law.

### 113.03.02 – Commission Board.

The board of the commission shall consist of three (3) members: One shall be appointed as a member of the board of the Athens Building Commission to serve a term of one (1) year from the passage date hereof; one shall be appointed as a member of the board of the Athens Building Commission to serve a term of two (2) years from the passage date hereof; and one shall be appointed as a member of the board of the Athens Building Commission to serve a term of three (3) years from the passage date hereof.

At the conclusion of the term of the appointment of each member of the commission, the mayor shall appoint a successor with the approval of common council for a term of five (5) years. Not more than two (2) of the three (3) members of the board shall be from the same political party and no member may hold any office (other than the office of notary public) or employment under the United States of America, the State of West Virginia, any county or political subdivision thereof, or any political party. All members shall be residents of the Town of Athens.

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### **113.03.03 - Property.**

The commission shall not acquire, encumber, or dispose of any real property without the prior written consent of the common council of the Town of Athens.

### **113.03.04 - Indebtedness.**

No indebtedness of any nature of the commission shall constitute an indebtedness of the Town of Athens, the County of Mercer, or any agency thereof except the commission. No indebtedness or obligations incurred by the commission shall give any right against any member of the common council of the Town of Athens or any member of the commission.

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### **113.03.05 - Powers and authority.**

In addition to the powers allowed by statute, the commission shall make and adopt all necessary, appropriate, and lawful bylaws and rules and regulations pertaining to its affairs; elect such officers and appoint such committees as may be necessary for the conduct of its affairs; and do all things reasonable and necessary to carry out its functions.

### **[E] [SEP] 113.03.06 - Compensation.**

No member of the commission shall receive any compensation for his services as such, but each member shall be reimbursed actual reasonable and necessary expense incurred in the discharge of his duties as a member of the commission.

### **113.03.07 - Insurance.**

All members of the commission shall be afforded insurance coverage for any act or acts of the commissioner while within the purview of his duties as a commissioner.

## **113.04 Park and Recreation Commission**

The Park and Recreation Commission shall consist of five (5) members, plus the Mayor being an ex officio member. These members shall be appointed by the Council for a term of five (5) years. This commission shall assist the Council in providing park and recreation facilities in the Town. It shall also ensure that the operation, maintenance, improvement and extension of such facilities are provided. Adopted 1/6/2004

## **115.00 Finance and Taxation**

115.01 Financial Powers of the Mayor and Council

115.02 Budget

115.03 Audit  
115.04 Contracts  
115.05 Taxes and Levies

### 115.01 Financial Powers of the Mayor and Council

The Mayor shall have charge of the administration of the financial affairs of the Town and to that end shall have authority to and be required to:

1. Compile and present to The Council for approval budges of revenue, operational and capital expense for each of the Town Funds (water, sewer, general municipal and others as required).
2. Supervise and be responsible for the disbursement of all money and have control over all expenditures to insure the budge appropriations are not exceeded.
3. Delegate and supervise the general accounting system for the Town government requiring reports of receipts and disbursements.
4. Submit to Council for audit and approval, before payment, all bills, invoices, payrolls and other evidences of claims, demands or charges against the Town.
5. Supervise and be responsible for the purchase, storage, and distribution of all supplies, materials, equipment, and any other articles used by the Town.
6. Submit to the Council a monthly statement of all receipts and disbursements in sufficient detail to show the exact financial condition of the Town.
7. Have custody of all public funds belonging to or under control of the Town, and supervise the deposit of all funds coming into the Town in such depositories as may be designated by the Council. The interest on such accounts shall be the property of the Town.

The Mayor may at any time transfer any unencumbered appropriation balance, or portion thereof, to the general classification of expenditures within the Town. The Council may resolve to transfer any unencumbered appropriation balance or portion thereof from one department or agency to another. Adopted 1/6/2004

## 115.02 Budget

The Fiscal Year shall begin the first day of July and end the last day of June of each calendar year. The term "budget year" shall mean the fiscal year of which any particular budget is adopted and in which it is administered.

The Mayor shall submit to the Council a budget, in a timely manner. Upon approval, the budget and supporting schedules shall be public record in the Town office and there be available for any interested person. The budget shall be adopted by the favorable votes of at least a majority of all the members of the Council. Adopted 1/6/2004

## 115.03 Audit

In addition to the annual audit conducted by the State Tax Commissioner, the Council may employ qualified public accountants to make an independent audit of accounts and other evidences of financial transactions of the Town government. Adopted 1/6/2004

## 115.04 Contracts

Any capital improvements or repairs costing more than five thousand dollars (\$5,000.00) or any series of capital improvements or repairs constituting essentially a single project and costing in the aggregate more than five thousand dollars (\$5,000.00) shall be executed by contract except where such improvement is authorized by Council to be executed directly by the Mayor in conformity with detailed plans, specifications and estimates. All such contracts shall be awarded to the lowest responsible bidder after such public notice and competitive bidding as prescribed herein, and after a public opening of bids as likewise provided herein. Alteration in any contract may be made when authorized by Council upon the written recommendation of the Mayor.

Contracts shall be awarded to the lowest and best responsible bidder.

Split bidding is prohibited. The practice of "split bidding" is hereby defined as submitting multiple requisitions for supplies, materials, equipment or services for a single project where the sum of the costs of the several requisitions is equal to five thousand dollars (\$5,000.00) or more, thereby avoiding the necessity of the Town to require competitive sealed bids.

The Town may withhold payment to any vendor or contractor who is in default on the payment of any taxes, licenses, fees, or other money of whatever nature that may be due the Town by such vendor or contractor.



The Town shall require evidence of payment and performance bonds secured by a surety company authorized to do business in the State before entering a contract. The bonds shall be of such amount as the Council shall find reasonably necessary to protect the best interests of the Town.

Before the Mayor and Council make any purchase for supplies, materials, or equipment, there shall be ample time for competitive bidding. Any members of the Council shall excuse themselves from voting if they may personally profit from awarding of the contract. Adopted 1/6/2004

### 115.05 Taxes and Levies

Levies, assessment, collection and administration of taxes and such special assessments for benefits conferred by the Town shall be approved by the Council. Levies are to be laid as required by State law. Adopted 1/6/2004

### 117.00 Granting Franchise

An Ordinance of the Town of Athens, West Virginia Granting a Franchise to Cebridge Acquisition, LLC for the construction and Operation of a Cable System.

## CHAPTER II OFFENSES AND MISCELLANEOUS PROVISIONS

### Article 201.00 Administrative

201.01 Articles Repealed and Replaced  
201.03 Penalties  
201.05 Assist the Mayor

#### 201.01 Articles Repealed and Replaced

Ordinances previously enacted and set forth in Chapter III, entitled "General Offenses," are hereby repealed and replaced by the provisions of this Section.

#### 201.03 Penalties

Any person found guilty in the Municipal Court of the Town of Athens, of violating any section of this chapter shall be subject to a fine of not less than \$50 and not more than \$500.00.

#### 201.05 Articles Repealed and Replaced

No person shall, when required by the Mayor, Police or any other officer refuse or neglect to assist him in the execution of office in a criminal case, in the preservation of the peace or in the apprehension of securing of any person for a breach of the peace or in any care of escape or rescue.

### 202 Human Rights (complete section) passed 3-3-2020

#### 202.100 Unlawful Discrimination

##### 202.101. Purpose and Intent.

It is the purpose and intent of the Athens Town Council to protect and safeguard the right and opportunity of all persons to be free from all forms of discrimination, including discrimination based on real or perceived race, color, religion, national origin, sex, sexual orientation, gender identity, age, disability, marital status, familial status, or veteran status. The Council's purpose in enacting this ordinance is to promote the public health and welfare of all persons who live and work in the Town of Athens. It is important for the Town to ensure that all persons within the Town have equal access to employment, housing, and public accommodations.

## 202.102. Definitions.

For the purposes of this ordinance, the following terms shall have the following meanings:

- (1) AGE. An individual's status as having obtained forty or more years of age.
- (2) Town CONTRACTOR. Any person, corporation, or entity that has a contract to do business with the Town of Athens.
- (3) DISCRIMINATE, DISCRIMINATION OR DISCRIMINATORY. Any act, policy or practice that, regardless of intent, has the effect of subjecting any person to differential treatment as a result of that person's real or perceived race, color, religion, national origin, sex, sexual orientation, gender identity, age, disability, marital status, familial status, or veteran status.
- (4) EMPLOYEE. Any individual employed by or seeking employment from an employer, excluding any individual employed by his or her parents, spouse, or child.
- (5) EMPLOYER. A person who employs one or more employees in the Town of Athens, or any agent of such person. Employer shall include the Town of Athens and any Town Contractor.
- (6) DISABILITY For the purposes of this ordinance the ADA's definition of disability will apply. The ADA defines a person with a disability as a person who has a physical or mental impairment that substantially limits one or more major life activities. This includes people who have a record of such an impairment, even if they do not currently have a disability. It also includes people who do not have a disability but are regarded as having a disability. The ADA also makes it unlawful to discriminate against a person based on that person's association with a person with a disability.
- (7) FAMILIAL STATUS. Means an individual's past, current or prospective status as parent or legal guardian to a child or children below the age of eighteen (18) who may or may not reside with that individual.
- (8) GENDER IDENTITY. The actual or perceived gender-related identity, expression, appearance, or mannerisms, or other gender-related characteristics of an individual, regardless of the individual's designated sex at birth.

- (9) MARITAL STATUS. An individual's past, current, or prospective status as single, married, domestically partnered, divorced, or widowed.
- (10) NATIONAL ORIGIN. An individual's or his or her ancestor's place of origin.
- (11) PUBLIC ACCOMMODATION. Any place, store, or other establishment, either licensed or unlicensed, that supplies accommodations, goods, or services to the general public, or that solicits or accepts the patronage or trade of the general public, or that is supported directly or indirectly by government funds. The term does not include any private club, bona fide membership organization, or other establishment that is not in fact open to the public.
- (12) RELIGION. All aspects of religious belief, observance, and practice.
- (13) SEXUAL ORIENTATION. Actual or perceived homosexuality, heterosexuality, or bisexuality.
- (14) VETERAN STATUS. An individual's status as one who served in the active military, naval or air service.

### 202.103 Civil Rights Declared

The right of an otherwise qualified person to be free from discrimination because of that person's real or perceived race, color, religion, national origin, sex, sexual orientation, gender identity, age, disability, marital status, familial status, or veteran status is recognized as and declared to be a civil right. This right shall include, but not be limited to, all of the following:

- (1) The right to obtain and hold employment and the benefits associated therewith without discrimination.
- (2) The right to the full enjoyment of any of the accommodations, advantages, facilities, or privileges of any public accommodation without discrimination.
- (3) The right to engage in property transactions, including obtaining housing for rental or sale and credit therefor, without discrimination.

- (4) The right to exercise any right granted under this ordinance without suffering coercion or retaliation.

#### 202.104. Exceptions

Notwithstanding the foregoing, the following are not discriminatory practices prohibited by Sec. 1-3 of this ordinance:

- (1) A religious corporation, association, or society that employs an individual of a particular religion to perform work connected with the performance of religious activities by the corporation, association, or society.
- (5) An employer who observes the conditions of a bona fide affirmative action plan or a bona fide seniority system which is not a pretext to evade the purposes of this ordinance.

#### 202.105 Enforcement

The Town may receive, initiate, investigate, seek to conciliate, hold hearings on and pass upon complaints alleging violations of this ordinance according to procedures it develops in accordance with State law. This ordinance may also be enforced through a private civil action in municipal court.

#### 202.106. – Other Remedies

This ordinance may not be construed to limit any other remedies available under local, state, or federal law.

### 203.00 Offenses against Persons

- 203.01 Assault
- 203.02 Battery
- 203.03 Risk of Physical Harm
- 203.04 Provoking a Violent Response
- 203.05 Noise

### 203.01 Assault

No person shall unlawfully attempt to commit a serious, physical injury to the person of another or unlawfully commit an act which places another in reasonable apprehension of immediately receiving such an injury.

### 203.02 Battery

No person shall unlawfully and intentionally make physical contact of an insulting or provoking nature with the person of another or unlawfully and intentionally cause physical harm to another person.

### 203.03 Risk of Physical Harm

No person shall create a condition which presents a risk of physical harm to persons or property.

### 203.04 Provoking a Violent Response

No person shall insult, taunt or challenge another under circumstances in which such conduct is likely to provoke a violent response.

### 203.05 Noise

After request to desist, no person shall make, continue, or cause to be made with or without use of an instrument or device, an unreasonably loud and disturbing noise of such intensity and duration as to disturb the peace and quiet of the community or to be detrimental to the life or health of any individual.

No person shall keep or harbor any dog which howls or barks to the annoyance of the inhabitants of the Town; and no person shall create, continue, contribute to, or suffer to exist such a nuisance.

## 205.00 Offenses Relating to Property

205.01 Trespass

205.02 Trespass in Structure of Conveyance

205.03 Tampering with Utilities

## 205.01 Trespass on Property

No person shall trespass (willful unauthorized entry) upon, in or under, the property of another. This shall include the following:

Entry by the State, by its political subdivision or by the officers, agencies, or instrumentalities thereof as provided by the law.

Exercise of right in, under or upon by virtue of rights of way or easements by a public utility or other person owning such right of way or easement whether by written or prescriptive right.

Permissive entry, whether written or oral, and entry from a public road by the established private ways to reach a residence for the purpose of seeking permission unless signs are posted prohibiting such entry.

Entry performed in the exercise of a property right under ownership of an interest in, under or upon such property.

Entry where no physical damage is done to property in the performance of surveying to ascertain property boundaries, and in the necessary work of construction, maintenance and repair of a common property line fence, or building or appurtenances which are immediately adjacent to the property line and maintenance of which necessitates entry upon the adjoining owner's property.

## 205.02 Trespass in Structure of Conveyance

No person shall knowingly enter in, upon or under a structure of conveyance without being authorized, licensed, or invited. A trespasser must immediately leave after having been requested to do so by the owner, tenant, or agent or such owner or tenant, of any structure of conveyance.

## 205.03 Tampering with Utilities

No person, with intent to cause harm or evade payment for water, gas, or electricity, shall connect or cause to be connected any pipe, tube, wire, electrical conduit or other instrument with any main, pipe, conduit or flume for conducting water; or with any main, pipe or conduit for conducting gas; or with any wire or other electrical conductor for conducting electrical energy. No person, with the like intent, shall damage, alter, or obstruct the action of any water, gas, or electrical meter.

No person shall deface any telephone or utility pole by posting bills thereon, putting up signs, driving nail therein, or wrapping around them wires or other materials, without the written permission obtained for the Police of the Town.

## 207.00 Disorderly Conduct/Disturbance of the Peace

- 207.01 Inciting of Violence
- 207.02 Utterance Inciting Breach of Peace
- 207.03 Utterance to Provoke a Violent Response
- 207.04 Creation to Provoke Physical Harm

### 207.01 Inciting of Violence

No person shall engage in conduct with the intent to cause public inconvenience, annoyance, alarm or harm. No person shall engage in conduct which has a direct tendency to cause acts of violence by the person or persons at whom, individually, such conduct is directed.

### 207.02 Utterance Inciting Breach of Peace

No person shall make unreasonable noise, which by its very utterance or usage tends to cause injury or to incite any immediate breach of peace.

### 207.03 Utterance to Provoke a Violent Response

No person shall utter insults, taunts or challenges to another under circumstances in which such conduct is likely to provoke a violent response.

### 207.04 Creation to Provoke Physical Harm

No person shall create a condition which presents a risk of physical harm to a person or property.

## 209.00 Animals

- 209.01 Dogs at Large
- 209.02 Protection of Dogs and Other Animals
- 209.03 Dogs Excrement Control
- 209.04 Dogs in Heat
- 209.05 Vicious Dogs
- 209.06 Penalties

### 209.01 Dogs at Large

No person shall allow any dog owned by him/her or in his/her custody to run at large within the town. "Running at Large" shall be defined as allowing a dog to leave the property limits of property owned, leased, or occupied by the dog's owner without restraint. "Restraint" is defined as being secured by a leash or lead, or being under the control of a responsible person and obedient to that person's command.



## 209.02 Protection of Dogs and Animals

No person within the town limits shall keep on a leash, tied to a structure, confined in a pen, run or cage or leave in a vehicle, any dog or animal without adequate protection from direct sunlight or exposure to the weather or without adequate fresh water and food at all times.

## 209.03 Dog Excrement Control

No person shall allow his/her dog, or one in his/her custody, to defecate upon the lands of another nor upon the streets or sidewalks of the town without immediate removal.

## 209.04 Dogs in Heat

The owner of any female dog in heat shall keep such dog confined in a secure building or secure enclosure so that such female dog cannot come into contact with another dog, except for planned breeding.

## 209.05 Vicious Dogs

No person shall own, keep or harbor any dog, known by him/her to be vicious, dangerous or in the habit of biting or attacking persons or other animals. Upon satisfactory proof that such a dog is vicious, dangerous, or in the habit of biting or attacking persons or other animals, the policy may cause such a dog to be impounded or killed.

## 209.06 Penalties

The Mayor or Municipal Judge may order the impoundment of any animal found to be in violation of this ordinance and the owner of such animal shall be subject to penalties as set forth in Section 201.03 of this section.

## 211.00 Weapons and Explosive

- Article 211.01 Discharge of Firearms
- Article 211.02 Threatening Breach of Peace
- Article 211.03 Harming of Persons or Property
- Article 211.01 Discharge of Firearms

No person shall discharge a rifle, shotgun, handgun, or other firearm within the Town, except in self-defense, in the discharge of an official duty or when otherwise lawfully instructed. An air gun may be used solely for pest control.

## 211.02 Threatening Breach of Peace

No person armed with a pistol, gun, or other dangerous or deadly weapon, whether licensed to carry the same or not, shall carry, expose, brandish, or use such weapon in a way or manner to cause or threaten a breach of the peace.

## 211.03 Harming of Persons or Property

No person shall throw, shoot or propel an arrow, missile, pellet, stone, metal or other similar substance capable of causing physical harm to persons or property, in or on any public place, in or on the property of another or from any private property into or onto any public place or property of another.

## 213.00 Intoxicant Control

Article 213.01 Intoxication in Public Place

Article 213.02 Consuming in Public

Article 213.03 Consuming in Vehicles

Article 213.01 Intoxication in Public Places

### 213.01

No person shall appear in a public place in an intoxicated condition. Adopted 11/7/2006

### 213.02 Consuming in Public

No person shall consume intoxicating beverages or other intoxicants in or on any public sidewalk, walkway, entranceway, street, lane or other public place. Adopted 11/7/2006

### 213.03 Consuming in Vehicles

No person shall consume any intoxicating beverage or other intoxicant in a motor vehicle on any highway, street or alley. No person shall possess an open container of intoxicating beverage in a motor vehicle except in a place which can be reached only by leaving the vehicle. The beverage must have its seal intact. Adopted 11/7/2006

#### 213.04 Underage Possession and Purchase of Alcoholic Beverages

No person under the age of twenty-one years shall purchase, consume, sell, possess or serve wine, intoxicating or non-intoxicating beer, or other alcoholic liquor within the Town of Athens. Provided that nothing in this section shall prevent or be deemed to prohibit any person who is at least eighteen years of age from serving in the lawful employment of any West Virginia alcohol licensee, which may include the sale of wine, intoxicating or non-intoxicating beer, or other alcoholic liquor within the Town of Athens.

No person shall knowingly buy for, give to or furnish wine, intoxicating or on-intoxicating beer or other alcoholic liquor from any source to anyone under the age of twenty-one to whom they are not related by blood or marriage, within the Town of Athens. Adopted 11/2/2010

## CHAPTER III HEALTH AND SAFETY

### 301 Unsafe Buildings Repealed 1-20-2020

#### 303.00 Garbage, Trash, and Other Waste

303.01	Definitions
303.02	Collection by Town
303.03	Authorized Collectors
303.04	Removal Service Charges
303.05	Container Storage
303.06	Saturday and Sunday Collections

##### 303.01 Definitions

**Solid Waste:** All putrescible animal and vegetable wastes resulting from handling, preparation and consumption of foods. Waste material and refuse of every character collected or accumulated within the town, including but not limited to: ashes, industrial or domestic wastes, dead animals, animal excreta, paper, rubber, plastic, glass, metal, shrubbery or tree trimmings, leaves, grass clippings, dirt, wood, stone, household appliances, furniture, brick, plaster, or materials resulting from the demolition, alteration or construction of buildings or structures or any accumulation of waste matter or substances which are or may become hazardous or harmful to the public health and welfare. "Solid waste" shall include both garbage and refuse.

**Solid Waste Removal:** The hauling and transportation of solid waste in closed or covered motor vehicles of solid waste from the point of collection to the point of disposal. Tree trimmings, dirt, household appliances, furniture, brick, or materials resulting from the demolition, alteration or construction of buildings or structures may be hauled and transported in open or uncovered motor vehicles.

**Council:** The Athens Town Council

**Solid Waste Disposal:** The disposition of solid waste in accordance with rules and regulations promulgated by the Council.

**Residential Unit:** One room or a suit of two (2) or more rooms in a building for or used by one or more persons for living and sleeping purposes and having at least one kitchen or kitchenette.

**Supervisor:** The superintendent of construction and maintenance and his duly authorized delegate.

**Garbage:** Animal, vegetable or fruit refuse wrappings, serving materials, and other substances attending the preparation, use, storage, and disposal of food stuffs.

**Private Collector:** One who collects, removes, or disposes of solid waste for individuals or entities not qualified for the services of solid waste removal as hereinafter set forth.

**County Health Officer:** The administrative head of the Mercer County Health Department or his duly authorized representative.

**Rubbish:** Cans, bottles, ashes, paper, rags, and other inorganic or nonliving refuse not used in food preparation and not putrescible.

**Driveway removal:** Pickup of residential solid waste by the supervisor at a location on the property of persons using city solid waste disposal services, which locations shall be determined by the service user and supervisor. Adopted 10/15/2002

### 303.02 Collection by the Town

The Town shall provide minimum regular service to all the residential units in the town limits only in the manner and the extent provided in this chapter and such collection, removal and disposal of solid waste shall be solely performed by the supervisor, for all persons except those set out in Articles 303.03 through 303.04. Adopted 10/15/2002

### 303.03 Authorized Collections

No person except the Town and private collectors shall engage in or conduct the business of collection, removal or disposal of solid waste within the town limits.

It shall be mandatory for all occupants of residential units to place their garbage containers at curbside, alley side or other place designated by the supervisor.

Consistent with available manpower and scheduling, the supervisor may make available, as a special discretionary service, driveway removal. This service shall be made primarily available to aged or infirmed persons, persons whose property is steep or difficult to carry a container, and lastly to members of the general public. A fee, set out in Article 303.04, shall be made for this service.

Consistent with available manpower and scheduling, the supervisor may make available, as a discretionary service, special pickups. This service is intended to allow persons entitled to minimum regular service to dispose of major junk or rubbish items or tree or shrubbery trimmings. A fee, to be determined in accordance with Article 303.4, shall be made for this service. From time to time the council may designate a special period as a city-wide clean-up period, and make special pickups available to users of this town service on a onetime basis without charge.

It shall be the duty of everyone in possession, charge, or control of any boarding house, restaurant, hotel, apartment, eating house, lunchroom, dwelling house, flat or any place where food is prepared, stored, sold or offered for sale within the town providing at all times an adequate portable receptacle to contain the amount between collections. Each such receptacle for garbage shall be durable, permanent, and constructed of metal, plastic or a like suitable substance; shall be watertight; shall be constructed as gallons to contain not less than eight (8) gallons nor more than thirty (30) gallons; shall be provided with handles on opposite sides thereof, or on cans of ten (10) gallons or less with a bail; and shall have a tight-fitting lid of the same substance as the receptacle, or of another confirming substances. Such covers shall not be removed except when necessary to place garbage in such receptacle or to take garbage therefrom.

Any receptacle which does not conform to the requirements of this section, or which has fallen into disrepair, may, at the option of the supervisor or his delegate, be removed and discarded.

Rubbish may be placed in cans, barrels, bags, or boxes which can be conveniently handled by the collector. Ashes shall be placed in metal receptacles or fireproof boxes which can be conveniently handled by the collector. Ashes shall be cool when placed for collection.

Private collectors engaged in the business of collecting or disposing of solid waste within the town shall be subject to the safety and health regulations promulgated by the Council and County Health Officer.

Private collectors shall not park, store, or keep any vehicle used in collection, transportation, or disposal of solid waste on any public street, alley or private property in any area in town. Any parking shall be limited to a two (2) hour duration. Adopted 10/15/2002

### 304.04 Removal Service Charges

Regular trash and garbage removal fees for residential units lying within the town limits are included in the town service fee.

The Town shall have the right to deny solid waste collection service to any person, business, hotel, or apartment complex or building, school, or other governmental building or commercial enterprise whose solid waste requirements are sufficiently abnormal or different in the opinion of the supervisor as to justify special handling. Such persons, businesses or entities shall contract with competent and reliable private collectors to insure regular and adequate solid waste removal.

Each user of driveway removal service shall be subject to an additional charge of two and 50/100 dollars (\$2.50) per month.

Each user of special pickups shall be subject to a charge based on the equipment used as established by the superintendent plus additional costs or fees which may be incurred by the Town in transportation and disposal. This charge shall be specially billed by the Town Clerk. Adopted 10/15/2002

### 303.05 Container Storage

It shall be unlawful for any property owner or occupant to allow garbage or rubbish containers to remain upon the sidewalk, lawn or street areas or nearer than twenty (20) feet from the front property line or ten (10) feet from the side or rear property line except upon the day for collection and the evening prior to collection.

Garbage, rubbish, or trash in containers as specified in Article 303.03 Section D may be stored inside permanent building or approved front, side, and/or rear property line. An approved enclosure must completely surround all containers with walls not less than four (4) inches above the tallest container. If a gate is used it must be equipped with a lock. The wall must prevent the entrance of animals through cracks, slates, or other methods and must retain spilled material within the enclosure.

### 303.05 Saturday and Sunday Collections Restricted

It shall be unlawful for any private individual, firm, or corporation to make any collection of garbage, rubbish, or trash in the Town on Saturday or Sunday after 10:00A.M. The Mayor shall have the right to make an exception. Adopted 10/15/2002

## 305 Grass, Weeds, and Vegetation

305.01	Definitions
305.02	Height Maximum
305.03	Breeding Places
305.04	Removal of Cut Vegetation
305.05	Maximum Time for Remediation
305.06	Fines and Charges
305.07	Repeat Offenders

### 305.01 Definitions

As used in this article, the term "weeds" shall include all rank vegetation growths which emit unpleasant and noxious odors, may conceal filthy deposits or are unsightly and all high grass and other such unsightly growths. Adopted 10/15/2002

### 305.02 Height Maximum

No owner, occupant or person in charge of any premises, or his/ her agent or employee, shall suffer or permit thereon the growth of weeds or grass to be above the height of more than twelve (12) inches. No such person shall suffer or permit the growth of any weeds or grass on any part of any sidewalk abutting upon such premises. Adopted 10/15/2002

### 305.03 Breeding Places

All premises shall be maintained by the owners, occupants, or persons in charge, free of vegetation which affords a breeding place for insects, reptiles or rodents which may be unhealthy to the residents of the Town. Adopted 10/15/2002

### 305.04 Removal of Cut Vegetation

Grass, weeds, and vegetation, when cut down, shall be removed from the premises and disposed of in such a manner as to not create a nuisance.

Adopted 10/15/2002

### 305.05 Maximum Time for Remediation

The owner, occupant, or person in charge, shall, within five (5) days after written notice has been served by the Town of Athens, cut or destroy or cause to be cut or destroyed any grass and prevent the same from blooming or going to seed or exceeding a height of twelve (12) inches. In each case of violation of this Article, if the owners, occupant or person in charge has not remedied the situation, The Town of Athens shall cause such grass, weeds, and vegetation to be cut and removed. Adopted 10/15/2002



### 305.06 Fines and Charges

Fines for violation of this Article shall be levied by the Mayor. The fines shall be no more than five hundred dollars (\$500.00). In each case, all expenses incurred by the Town in cutting and disposing of the vegetation shall also be chargeable to and paid by such owner, occupant, or person in charge, and may be collected in any manner authorized by law. Adopted 10/15/2002

### 305.07 Repeat Offenders

If this violation is repeated, a lien shall be placed upon the property. The Town shall then assume maintenance of the property without further notice to the owner, occupant, or person in charge. A record of the number of maintenance visits requires the cost in time of personnel and cost of use of the machinery will be kept by the Town.

## 306.00 Tree Ordinance

### PURPOSE:

To protect and promote the quality of life, public health and safety, and general welfare of residents of the Town of Athens, West Virginia, by providing for the regulation of the planting and maintenance of trees, shrubs, and other plants within the Town and by establishing a Tree Board, the responsibilities of which are herein defined.

### SECTION I. SHORT TITLE

This ordinance shall be known as the Tree Ordinance of the Town of Athens, Mercer County, West Virginia.

### SECTION II. AUTHORITY AND POWER

There is hereby created and established a Tree Board for the Town of Athens, which shall consist of three to five members, who shall be appointed by the Mayor with the approval of the Athens Town Council. At least two members of the board shall be residents of the Town. Members of the Athens Tree Board shall serve without compensation. The Athens Tree Board shall select its own offices.

### SECTION III. TERMS OF OFFICE

The term of the three to five persons to be appointed by the Mayor shall be three years, except that the term of one or two of the members appointed to the first board shall be for only one year and the term of one or two members of the first board shall be for two years. In the event that a vacancy should occur during the term of any member, the Mayor, with the approval of the Athens Town Council, shall appoint a successor for the unexpired portion of the term.

### SECTION IV. RESPONSIBILITIES

The Athens Tree Board shall have the following responsibilities:

1. To educate the public concerning the benefit of and sound procedures for planting and maintaining the health of trees,
2. To maintain specifications for the planting and maintenance of trees as defined in Section VII,
3. To keep record of Landmark Trees, as defined in Section X,
4. To serve as a liaison between residents and utility companies concerning trees.

The Athens Tree Board will also be available to serve as a liaison between the Athens Town Council and residents concerning trees.

### SECTION V. APPLICABILITY

This ordinance provides full power and authority over all trees, plants, and shrubs located within street rights-of-way, parks, and public places of the Town of Athens; and any trees, plants, and shrubs located on private property located within the Town of Athens that may constitute a hazard or threat to the public as determined by the Athens Town Council.

### SECTION VI. DEFINITIONS

**Athens Tree Board** is the body which advises the Athens Town Council on matters affecting urban areas.

**Parks** shall include all public parks, the ownership and control of which are vested in the Town of Athens, Mercer County, West Virginia.

**Person** is any person, firm, partnership, association, corporation, company, or organization of any kind.

**Private Tree** shall mean any tree whose trunk is not located entirely on Town-owned or Town-controlled property.

**Property Owner** shall mean the person(s) owning designated property, as recorded in the County Assessor's Plat of Mercer County.

**Public Places** shall include all grounds and easements owned by or granted to the Town of Athens.

**Public Tree** shall mean any tree whose trunk now or hereafter is located entirely on Town-owned or Town-controlled property.

**Topping** shall mean any pruning practice that result in cutting back limbs within the tree's crown to stubs larger than three inches in diameter, so as to remove the normal canopy and disfigure the tree.

**Tree** shall mean any woody plant.

**Urban Trees** shall mean any tree now or hereafter located in the Town of Athens.

## SECTION VII. TREE PLANTING, MAINTENANCE, AND REMOVAL

Except in an emergency as defined in Subsection B of Section VII, no person shall perform any operation involving a public tree without the approval of the Athens Tree Board, including, but not limited to, planting, maintenance, removal fertilization, spraying, and pruning.

Any public utility company shall notify the Athens Tree Board of any routine line maintenance affecting urban trees within 60 days of the beginning of work. However, the Athens Tree Board grants permission to any public utility company to perform work on urban trees during an emergency situation including, but not limited to, natural tree fall and storm fall.

All operations on urban trees covered by the provisions in this ordinance shall be conducted based on the specifications and standards published by one or more of the following: American National Standards Institute (ANSI), International Society of Arboriculture (ISA), or the West Virginia Division of Forestry - Urban and Community Forestry.

When trees on private property overhang sidewalks or streets, it shall be the responsibility of the property owner to protect the safety of the public by maintaining the health and soundness of those trees and by pruning branches that pose a hazard to pedestrian or vehicular traffic or that limit the vision of motorists.

The Athens Tree Board will be available to serve in an advisory capacity in regard to planting, maintenance and removal of trees.

## SECTION VIII. LANDSCAPING

In new subdivision of when the development of commercial property occurs, the Athens Tree Board will review landscaping plans and may require street trees to be planted alongside any of the streets, parking lots, parks, and other public places abutting lands henceforth developed and/or subdivided.

The Athens Tree Board encourages sub dividers, commercial, and private developers to protect as many existing urban trees as possible (by not damaging trees or their root systems) during new construction.

## SECTION IX. ABUSE OR MUTILATION OF PUBLIC TREES

No person shall cause damage to public trees, including but not limited to:

1. Cutting, carving, or removing public trees.
2. Attaching wires, nails, or advertising posters on public trees.
3. Introducing any substance that is harmful to public trees.
4. Setting fire to any public trees.
5. Inappropriate pruning practices, includes topping.

## SECTION X. LANDMARK TREES

The Athens Tree Board shall have as one of their duties the designation of and the recording of the location and identification of any tree that qualifies as a "landmark tree." A tree may qualify as a "landmark tree" if it meets one or more of the following criteria:

1. It has historic significance.
2. It is considered a rarity in this area by virtue of its species, shape, or form.
3. There is evidence of public demand for its protection.  
It serves as a legal boundary marker.

All landmark trees shall be afforded the same protection as public trees as described within this ordinance. No private tree shall be designated as a landmark tree without prior approval of the property owner.

## SECTION XI. CONTRACTORS

With the exception of employees of the Town of Athens, any entity or person providing any tree service of any type on public property shall comply with the Town of Athens' contractual policies.

## SECTION XII. ENFORCEMENT, VIOLATIONS AND PENALTIES

The Athens Town Council shall have the power to promulgate and enforce all the rules, regulations and specification included in this Ordinance.

Any person who violates any provision of this ordinance, upon being found guilty of the violation, shall be subject to a fine of not to exceed \$500 for each separate offense. If, as a result of the violation of the provisions of this ordinance, the injury, mutilation, or death of a public tree is caused, the cost of repair or replacement of such tree shall also be borne by the party in violation.

## SECTION XIII. SEVERABILITY

If any provisions of this ordinance shall be declared invalid or unconstitutional by any court of competent jurisdiction, such declaration shall not invalidate the remaining provisions of this Ordinance. The Athens Town Council hereby declares that it would have adopted each and every portion of this Ordinance separately, regardless of the possible invalidity of any part thereof. Adopted by vote of Council 8/21/2007

## 307.00 Unattended or Inoperative Motor Vehicles

307.01	Definitions
307.02	Storage Prohibited Article
307.03	Exemptions
307.04	Impoundment; Sale

### 307.01 Definitions

**Motor Vehicle:** A vehicle which is or was self-propelled, including but not limited to: automobiles, trucks, buses, and motorcycles.

**Inoperative Motor Vehicle:** Any motor vehicle or part thereof which is not in running condition and cannot be routinely started and moved under its own power.

**Unattended Motor Vehicle:** Any inoperative motor vehicle or any motor vehicle which is not licensed, insured, and inspected as required by the WV Code, which has been allowed to remain on public property for any period of time over five (5) days, or on private property for any period over thirty (30) days.

**Person:** Includes a natural person, corporation, firm, partnership, association, or society and the plural as well as the singular.

**Running Condition:** Includes but is not limited to the following conditions: a charged battery, inflated tires or fluid levels which would guarantee normal operation. Any such vehicle which is not inoperative and which would pass a West Virginia Department of Motor Vehicles inspection shall be deemed in running condition.

**Demolisher:** Any properly licensed person whose business is, to any extent or degree, to convert a motor vehicle or any part thereof into processed scrap metal, or into saleable parts, or otherwise to wreck or dismantle vehicles.

**Permitted vehicle:** A motor vehicle or part thereof for which storage is permitted by the Town of Athens as set forth in this article.

**Private Vehicle:** A vehicle, which is owned by a natural person or natural persons primarily for private and not commercial use.

**Commercial Vehicle:** A vehicle that is owned by corporation, firm, partnership, association or society and the plural as well as the singular or a vehicle which is owned by a natural person or persons for primarily business or commercial use. Adopted 11/21/2006

### 307.02.1 Public Storage

It shall be unlawful for any person to store on any public street or any public parking area, any abandoned, unattended or inoperable motor vehicle for a period of more than five (5) days. Upon report of such a motor vehicle, and in addition to the penalty for violation as hereinafter set forth, law or code enforcement personnel shall attach notification to the front and rear of the vehicle declaring that said vehicle is in violation of this ordinance and is therefore subject to removal forty-eight (48) hours after the notification is issued. Adopted 11/21/2006

### 307.0.2.2 Private Storage

It shall be unlawful for any person on premises owned or leased by the person to store or suffer to be stored any unattended or inoperable motor vehicle for a period of more than thirty (30) days. Upon report of such motor vehicle, law and or code enforcement personnel shall furnish by United States mail or by delivery to the owners or lessor of the premises upon which such vehicle is located a notice directing the removal of the vehicle within five (5) days. The owner or lessor shall have the right to appeal in the municipal court of the Town of Athens within the five (5) day period. After 5 days each additional day that such vehicle is not removed following the initial notification shall constitute an additional offense and be punishable as set forth in 307.04 of this chapter. Adopted 11/21/2006

### 307.02.3 Commercial Vehicles

Commercial vehicles are prohibited in areas designated as R1, R2, or R3 by the Zoning Laws of the Town of Athens unless they are in use daily as delivery vehicles, in construction or maintenance projects or other activity supporting residential activity. This section shall not apply to two axel work vehicles except trash collection vehicles that are furnished by an employer for use as a work vehicle and are driven daily. Adopted 11/21/2006

### 307.03 Exemptions

Nothing in this Article shall be construed to prohibit the presence of unattended motor vehicles on the premises of licensed new or used motor vehicle dealers; on the premises of a licensed or authorized storage or impoundment facility. Nothing in this Article shall apply to private motor vehicles kept in a garage.

The Town Board of Zoning Appeals of the Town of Athens may upon application of a premises owner or lessee, issue a permit to keep a single vehicle which is out of compliance with this Article if the homeowner is engaged in the restoration of or some other activity which in the opinion of the Board is justified and engenders no complaints from neighbors. This permit shall be for a specific time period and shall only be renewed by application. Adopted 11/21/2006

### 307.04 Violations

Violation of any section of this article is a misdemeanor and shall be punishable by a fine of not less than Fifty Dollars (\$50.00) or more than Five Hundred Dollars (\$500.00) for each offenses with the Town of Athens having the right to remove and dispose of the offending vehicle as set forth in Article 307.05 of this chapter. Adopted 11/21/2006

### 307.05 Removal Impoundment and Disposal

An owner of a motor vehicle, or owner or lessor of premises who has been found in violation of this ordinance must immediately remove such unattended or inoperative motor vehicle or make such repairs to restore such vehicle to running condition. If any such unattended or inoperative vehicle is not removed or repaired within the time set forth in the notice described in Article 307.021 or Article 307.022, law and or code enforcement personnel may request that the municipal court of Athens authorize them to take into their custody and possession the offending vehicle. Upon receipt of such authorization, and within seven days after taking custody and possession thereof, such personnel shall notify the owner or lessor of the premises from which the vehicle was removed and the last known registered owner of such motor vehicle, if same is ascertainable, and all lien holders of record that such motor vehicle has been taken into custody and possession of the Town of Athens. Charges that have been incurred during preservation and storage of said vehicle shall be paid by owner prior to reclaiming such motor vehicle. Any interested parties may reclaim such motor vehicle within ten (10) days after receipt of such notice and failure to reclaim such motor vehicle prior to such ten day period shall be deemed a waiver to all right, title and interest in and to such motor vehicle by the owner, or lien holders and, their consent to the sale or disposal of the unattended or inoperative motor vehicle or junked motor vehicle at a public auction or to a licensed salvage yard or Demolisher.

Sufficient notice shall be deemed to have been given to unknown owners, lien holders, etc., by the publication of this notice as a Class I legal advertisement.



Law enforcement personnel may take proper action for the disposal of an unclaimed vehicle as is provided in West Virginia Code 17-24-9. Adopted 11/21/2006

## Chapter IV ABANDONED OR UNATTENDED VEHICLES

### 4.1. Definitions.

**Abandoned or unattended motor vehicle** means any motor vehicle or major part thereof, which has been allowed to remain on public property for any period of time over five (5) days, or on private property for a period over thirty (30) days.

**Demolisher** means any person licensed by the Town whose business is, to any extent or degree, to convert a motor vehicle or any part thereof into processed scrap metal, or into saleable parts, or otherwise to wreck or dismantle vehicles.

**Motor Vehicle** means a vehicle which is or was self-propelled, including, but not limited to, automobiles, trucks, buses, and motorcycles.

**Inoperative Motor Vehicle** means any motor vehicle or part thereof which is not in running condition and cannot be routinely started and moved under its own power.

**Person** includes a natural person, corporation, firm, partnership, association, or society, and the plural as well and the singular.

**Running Condition** implies but is not limited to the following conditions; a charged battery, inflated tires or fluid levels which would guarantee normal operation. Any vehicle meeting the above criteria and which would pass a West Virginia Department of Motor Vehicles inspection shall be deemed in running condition.

### 4-2 Storage of Abandoned, Unattended, or Inoperable Motor Vehicles Prohibited

It shall be unlawful for any person to store or suffer to be stored on any street any abandoned, unattended or inoperable motor vehicle for a period of more than five (5) days, or store or suffer to be stored on premises owned or leased by hi any abandoned, unattended or inoperable motor vehicle for a period of more than thirty (30) days.

Upon receipt of such motor vehicle, code enforcement personnel or law enforcement personnel shall furnish by United States mail or by delivery to the owner of the vehicle, or the owner or lessor of the premises upon which such vehicle is located a notice directing the removal of that vehicle within twenty-four (24) hours.

Failure to remove such vehicle within twenty-four (24) hours will constitute an additional offense under this Code; each additional day that

such vehicle remains following the initial notification shall constitute an additional offense.

Violations of subparagraphs (a) or (c) hereof are misdemeanors and shall be punished by a fine of not less than \$100.00 or more than \$500.00.

#### 4-3. Exemptions.

Nothing in this article shall be construed to prohibit the presence of abandoned or unattended motor vehicles on the premises of licensed new or used motor vehicle dealers; on the premises of a licensed vehicle demolisher; on the premises of licensed or authorized storage or impoundment facilities; or, in the case of vehicles licensed as antique motor vehicles, in the rear yards of residential premises, if such storage is not offensive to and engenders no complaints. Nothing in this article shall apply to motor vehicles kept in a garage.

#### 4-4. Impoundment; Sale.

Following notification and lack of response from the owner of the motor vehicle, or owner or lessor of premises upon which such a motor vehicle has been left (or allowed to be left), Code enforcement or law enforcement personnel may take into their custody and possession an abandoned or unattended motor vehicle. Within seven (7) days after taking custody and possession thereof, such personnel shall notify the owner or lessor of the premises from which the vehicle was removed and the last known registered owner of such motor vehicle, if same is ascertainable, and all lien holders of record that such motor vehicle has been taken into custody and possession and that, preservation and storage charges resulting from taking and placing such into custody and possession, interested persons may exercise their right to reclaim such motor vehicle. The notice shall further state that failure of any of the interested parties to exercise their right to reclaim such motor vehicle within such ten (10) day period shall be deemed a waiver by the owner, lien holders, etc., of all right, title and interest in such vehicle and of their consent to the sale or disposal of the abandoned motor vehicle or junked motor vehicle at a public auction or to a licensed salvage yard or demolisher.

Sufficient notice shall be deemed to have been given to unknown owners, lien holders, etc., by the publication of this notice as a Class I legal advertisement.

Code enforcement or law enforcement personnel may take proper action for the disposal of any unclaimed vehicle as is provided in West Virginia Code 17-24-9. Adopted 6/6/1991

## CHAPTER IV BUSINESS REGULATIONS, LICENSES AND FEES

### 401.00 Definitions Adopted 1/18/2005

- 401.01 Business Definition
- 401.02 Charitable Organizations
- 401.03 Business Location
- 401.04 Residential Unit
- 401.05 Multifamily Dwelling
- 401.06 License
- 401.07 Service Fee
- 401.08 Permit
- 401.09 Yard/Garage Sale
- 401.10 Franchise for Construction and Operation of a Cable System

#### 401.01 Business

An individual or group of individuals engaged in a permanent or temporary for-profit enterprise.

#### 401.02 Charitable Organizations

A non-profit organization or association of individuals.

#### 401.03 Business Location

The address, office, or workplace from which business activity is performed, coordinated or assigned.

#### 401.04 Residential Unit

A dwelling, or portion of a dwelling such as an apartment, equipped with the facilities necessary to establish permanent residence for one or more persons, or a dwelling or portion of a dwelling which is rented, leased, or otherwise occupied as a residence.

#### 401.05 Multifamily Dwelling

A dwelling containing more than one residential unit.

#### 401.06 License

A certificate of authority is issued by a majority vote of the Council to an individual or organization. All rental properties are required to have a license.

#### 401.07 Service Fee

An amount of money assessed by the Town of Athens pursuant to and under the authority granted by West Virginia Code, Chapter 8, Section 13, to provide for municipal services, police protection, street lighting, general town maintenance and improvement and any service essential to the operation and maintenance of the Town. Adopted 1/18/2005

#### 401.08 Permit

Certificate of authority to conduct a specific event, sale, meeting or other activity issued by the Town to an individual or organization.

#### 401.09 Yard/Garage Sale

An open air, garage, tent, or any sale occurring without a fixed place of business.

#### 403 Licenses Adopted 1/18/2005

- 403.01 Business License
- 403.02 Application to Town Council
- 403.03 Posting of a License
- 403.04 Nontransferable
- 403.05 Information Required
- 403.06 Charitable Organizations Article
- 403.07 Rental Property

#### 403.01 Business License

Prior to engaging in any business activity within the Town of Athens, any individual, group or organization shall obtain a business license. The fee for this license shall be \$15.00 per year or any portion to the year during which the business operated within the Town. This license shall be renewed on or before July 1 for businesses operating in the Town on that date. Business license fees will not be prorated regardless of the date a business begins operation.

A business license shall not be denied if the business activity for which application is submitted is an activity which is not prohibited by the state, county, municipal statute, ordinance, rule or regulation.

#### 403.02 Application to the Town Council

Applications for Business Licenses shall be submitted to the Recorder of the Town Council. Applications found to be complete, as required by the ordinances of the Town, and in compliance with these Ordinances shall be presented to the Council for approval.

### 403.03 Posting of the License

Business licenses must be posted at the principal business location in a conspicuous place visible to the public during regular business hours.

### 403.04 Nontransferable

Any business license issued under the authority of this section is nontransferable for any purpose at any time.

### 403.05 License Information

Business License applications shall contain as a minimum, the following information. Any change after the license is issued will void the license, and another application will have to be made. If only one item is changed, a new fee will not have to be paid.

1. Name of proposed business
2. Street address
3. Owner's name
4. Manager's name
5. Description of the proposed business activity

### 403.06 Charitable Organizations

Charitable organizations shall file a request with the Town Council for an exemption from the requirement for business license. The Council may require substantiating documentation before making an exemption.

### 403.07 Rental Property

All rental property within the Town limits must be licensed. Each rental property shall be subject to inspection. The inspection shall follow the Rental Housing Code.

## 405.00 Fees

- 405.01 Municipal Service Fee
- 405.02 Business Service Fee
- 405.03 Garbage Pickup Fee for Outside the Town Limits
- 405.04 Special Garbage Pickup Fee
- 405.05 Street Paving and Repair Fee
- 405.06 Asset Replacement Fee
- 405.07 Yard/Garage Sale Permit Fee

#### 405.01 Municipal Service Fee

The owner, occupant or occupants of each dwelling shall pay a basic service fee each month. The basic service fee will be \$15.00 per month for the first residential unit within such dwelling and \$12.00 per month for each additional residential unit contained therein. The service fee shall be billed to the owner of each dwelling or upon application by the occupant of the residential unit (filed with the Town Clerk and accompanied by an appropriate affidavit showing the occupant's status as such) the bill may be rendered to the occupant. If, at any time, an occupant who has filed such an application and has been billed for the service fee described herein, fails to pay said fee in full when due; and it is thereafter determined by an employee of the Town of Athens, that it appears from facts and circumstances, upon reasonable inquiry or investigation, that said occupant has surrendered, abandoned, sublet, assigned the use of or otherwise relinquished possession of the subject residential unit, then the application of said occupant will be rendered void and the service fee for the month following such determination will be billed to owner of the dwelling. The owner will continue to be billed for such service fee until such time as another application by the occupant thereof is filed in the manner aforesaid. This fee will include police protection, street light provision and garbage collection.

Adopted 6/20/2006

#### 405.02 Business Service Fee

The owner of each business shall pay a business service fee of \$30.00 per month. A business, using the trash disposal services of the Town, is allowed a total of 500 pounds of trash per month for the fee. An additional surcharge of \$2.50 shall be paid for each additional 100 pounds of trash collected per month.

Adopted 6/20/2006

#### 405.03 Garbage Pickup fee for residential units outside Town limits

A fee of \$16.50 per month shall be charged for garbage pickup from residential or business units outside the Town limits. This fee will be included in the Town Municipal Service Fee for town residents.

Adopted 1/18/2005

#### 405.04 Special Garbage Pickup

A fee for special garbage pickup is \$35.00 for refuse up to one truckload plus all landfill fees. Only materials accepted by the landfill for disposal will be accepted for pickup. All refuse must be at the curbside for this special garbage pickup. The Town of Athens will pickup such refuse as their work schedule allows. An application for this service will be made at the Town Hall. Adopted 1/18/200

#### 405.05 Street Paving/Building Replacement Fee

Street Paving Fee: Each residential account shall pay \$2.00 per month into an account to be used exclusively for street paving and when funds are available for sidewalk replacement.

Building Replacement Fee: Each residential account shall pay \$1.50 per month into an account to be used exclusively for building repair and replacement and/or building construction or repair.

Adopted 11/18/2008

#### 405.06 Asset Replacement Fee

Each residential account shall pay \$1.00 per month into an account to be used exclusively for vehicle acquisition and/or building construction.

#### 405.07 Yard/Garage Sale Fee

A permit is needed to conduct a yard or garage sale within the Town limits and only two (2) yard or garage sales, consisting of no more than two consecutive days, may be held at any residence or property during a calendar year. The permit costs one dollar (\$1.00) and must be in public view the days of the sale. Adopted 1/18/2005

### 407.00 Penalties

- 407.01 Penalties
- 407.02 Continuing Violations
- 407.03 Operating Without a License
- 407.04 Appeals

#### 407.01 Penalties

Any person or business failing to pay the business license fee or any of the municipal service fees set forth in this Chapter shall be assessed a penalty. If the business license fee is unpaid, a Ten Dollar (\$10.00) per month fee shall be assessed for the first three (3) months. If the municipal service fee is left unpaid, a fee that is 10% of the service fee shall be assessed monthly for the first three (3) months. After the three (3) months, the individual or business shall be considered in violation of the ordinance, and upon conviction thereof before the Municipal Judge, shall be fined not less than Fifty Dollars (\$50.00) nor more than Five Hundred Dollars (\$500.00). Adopted 1/18/2005



#### 407.02 Continuing Violation

Any person or business violating any of the prohibitions of the Article shall be guilty of an additional violation for each day on which such violation occurs. Adopted 1/18/2005

#### 407.03 Operating Without a License

Any person who engages in businesses within the limits of the Town of Athens without first obtaining a business license shall be considered in violation of the ordinance and upon conviction thereof, before the Municipal Judge, shall be fined not less than Fifty Dollars (\$50.00) and no more than Five Hundred Dollars (\$500.00) for each day during which the business activity takes place. In addition, the Town Council shall have the right to deny a business license to any person or business so convicted. Adopted 1/18/2005

#### 407.04 Appeals

Appeals will be made to the Town Council which will forward the appeal to the Board of Zoning appeals as set forth in Article 607.08 and 607.09. The Board shall have all of the powers and duties set forth in Chapter 8, Article 24, and Section 55 of the West Virginia Code, as amended.

Appeals to the Board may be taken by any person aggrieved by any administration of this Business Code. Such appeal shall be taken within a reasonable time, as provided by the rules of this Board, by filing with the Recorder and with the Board a notice of appeal specifying the grounds thereof, and upon payment to the Recorder of Five Dollars (\$5.00) appeal costs. The Recorder shall forthwith transmit to the Board all papers constituting the record upon which the appeal was taken.

The Board shall fix a reasonable time for the hearing of an appeal, shall give public notice thereof as a Class I Legal Advertisement at least thirty (30) days prior to the date set for the hearing; as well as due notice, at least six (6) days prior to the hearing, by mail to the parties in interest at the address filed with the appeal, and shall decide the same within a reasonable time. Upon the hearing of such appeal any party may appear in person, by agent or by attorney.

The party taking an appeal before the Board will be required to assume the costs of the public notice to interested parties in addition to the required Five Dollar (\$5.00) fee for appeal costs.

The Board, in passing upon appeals, shall have the power to vary or modify such strict application to interpret the meaning of the Business Code provided that such variance, modification or interpretation shall remain in harmony with the general purpose and interest of the Business Code so that the health, safety, and general welfare of the community shall be conserved and substantial justice is done.

In granting an appeal, the Board may, if it deems proper to the carrying out of the intent and purpose of this Business Code, impose such reasonable and additional stipulations and conditions as will, in the judgment of the Board, better fulfill the purpose of the Business Code.

Adopted 1/18/2005

#### **409.00 Miscellaneous Business Activities**

- 409.01 Auction Sales
- 409.02 Junk Dealers
- 409.03 Pawn Brokers
- 409.04 Handbills
- 409.05 Sale of Unsound Articles

#### **409.01 Auction Sales**

No outdoor sale of jewelry, furniture, dry goods, clothing, hardware or other article of merchandise at public outdoor auction shall be conducted between the hours of 6:00 P.M. of one day and 8:00 A.M. of the following day.

Any person or firm who violates this provision shall be deemed guilty of a misdemeanor and upon conviction, shall be punished by a fine of not less than Fifty Dollars (\$50.00) nor more than Five Hundred Dollars (\$500.00). Adopted 1/18/2005

#### **409.02 Junk Dealers**

It shall be unlawful for any junk dealer to purchase junk of any character or any article dealt in by them from any person under the age of eighteen (18) years. Any persons, firm or corporation engaged in the buying and selling junk within this Town shall keep a record showing the date of purchase of any article dealt in by them as junk, the name of the party from whom purchased, the character of the junk purchased. The record shall be open to inspection by the police of the Town of Athens, during business hours. The said junk dealer shall, one a month, deliver to the police a copy of such records for inspection and filing. Any person violating this provision shall be fined by the Municipal Judge. Adopted 1/18/2005

### 409.03 Pawnbrokers

It shall be the duty of every pawnbroker within the Town to keep an accurate account of all merchandise, jewelry, fire-arms, watches, and every other character or article received by them in pawn for the loan of money or other things of value, state the amount of money or other things advanced upon said pawn, and report the same to the Police regularly every thirty (30) days. It shall be the duty of said pawnbroker at all times to furnish the Police, upon request, any information in connection with any pawn, the value of the same and number of same, and the name of the party who pawned same. Any person or firm violating this provision shall be fined no more than One Hundred Dollars (\$100.00). Adopted 1/18/2005

### 409.04 Handbills

It shall be unlawful for any person, firm or corporation to distribute or scatter handbills over or upon the streets in the Town of Athens, or to place or deposit such handbills on automobiles parked in said Town, unless written permission to scatter or distribute such handbills shall be obtained from the Athens Police. Any person or firm violating this section shall be fined. Adopted 1/18/2005

### 409.05 Sale of Unsound Articles

If any person, firm or corporation knowingly sells any unsound article or diseased, corrupted, or unwholesome provisions, whether food or drink, without advising the purchaser of such conditions, he shall be fined for each offense.

## 411.00 Effects of Chapter

411.01 Severability

411.02 Repeal of Existing Ordinances

### 411.01 Severability

If any article, section or other part of this Chapter is determined to be in violation or otherwise not in conformity with the laws, statutes or constitutions of the State of West Virginia or the United States of America, such article, section or part of this Chapter shall be interpreted and enforced so as to comply and conform with any such law, statute or constitution without affecting the validity and ability to be enforced of the remaining articles, sections and parts of the Chapter which conform with and do not violate such laws, statutes or constitutions. Adopted 1/18/2005

#### 411.02 Repeal of Existing Ordinances`

The following sections of the existing ordinances are hereby repealed as of the date of the passage of this new Ordinance: Chapter IV Miscellaneous Laws and Ordinances, Section 7, Section 15, Section 16, and Section 18. Chapter VI License, Fees, and Permits are hereby repealed in their entirety, as of the date of passage of this Ordinance. Adopted 1/18/2005

## CHAPTER V    TRAFFIC

### 501.00        Definitions

#### 501.01 Words and Phrases Defined

Provisions of Chapter 17 of the West Virginia Code (as set forth in West Virginia Criminal and Traffic Law Manual published by Lexis Nexis, 2001 edition) are hereby adopted. Definitions of the terms as set forth in the WV Code 17A-1-1 are hereby adopted. Definitions of terms and phrases as set forth in the WV Code 17C-1-1 are hereby adopted. Adopted 1/21/2003

### 502.00 Administrative

#### 502.01 Registration

#### 502.02 Insurance

#### 502.03 Inspection

#### 502.01 Registration

Any motor vehicle operated on the streets of Athens for which registration with the West Virginia Department of Motor Vehicles is required under the West Virginia Code must be so registered. Vehicles titled in a state other than West Virginia must be appropriately registered in that state. Any person found guilty of operating an unregistered vehicle on the streets of Athens shall be subject to penalties set forth elsewhere in this chapter of the Ordinances of the Town of Athens. Adopted 2/16/2009

#### 502.02 Insurance

Any motor vehicle operated on the streets of Athens must be insured as required by the West Virginia Code. Any person found guilty of operating an uninsured vehicle on the streets of Athens shall be subject to penalties set forth elsewhere in this chapter of the Ordinances of the Town of Athens. Adopted 2/16/2009

#### 502.03 Inspection

Any motor vehicle operated on the streets of Athens must be inspected as required by the West Virginia Code. Any person found guilty of operating an uninspected vehicle on the streets of Athens shall be subject to penalties set forth elsewhere in this chapter of the Ordinances of the Town of Athens. Adopted 2/16/2009

## **503.00 Obedience to and Effect of Traffic Laws**

Article 503.01 Vehicles upon Streets and Highways

Article 503.02 Use of Safety Belt

Article 503.03 Required Obedience to Traffic Laws

Article 503.05 Obedience to Public Officers and Employees

Article 503.07 Authorized Emergency Vehicles

Article 503.09 Traffic Laws Apply to Persons Riding Animals of  
Driving Animal Drawn Vehicles

### **503.01 Vehicles upon Streets and Highways**

Provisions of this chapter shall apply to the operation of vehicles upon the streets, parking lots, and alleys of the Town of Athens whether public, or the property of the State of West Virginia, the Town of Athens, the County of Mercer, the Board of Education, or any other public authority, or the private property of a church, business or an individual. Adopted 1/21/2003

### **503.02 Use of Safety Belt**

No person shall operate a passenger vehicle on a public street or highway of the Town of Athens 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. 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 traffic ordinances of the Town of Athens of State of West Virginia. Adopted 11/2/2010

### **503.03 Required Obedience to Traffic Laws**

It is unlawful and a misdemeanor for any person to do any act forbidden or fail to perform any act required in Chapter 17 of the West Virginia Code. Adopted 1/21/2003

### **503.05 Obedience to Public Officers and Employees; Chapter Inapplicable to Persons Engaged in Highway Surface Work**

Provisions of Section 17C-2-4 of the West Virginia Code, *ibid*, are hereby adopted.

§ 17C-2-4 Obedience to chapter of public officers and employees; chapter inapplicable to persons engaged in highway surface work

The provisions of this chapter applicable to the drivers of vehicles upon the highways shall apply to the drivers of all vehicles owned or operated by the United States, 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 chapter with reference to authorized emergency vehicles.

Unless specifically made applicable, the provisions of this chapter shall not apply to persons, teams, motor vehicles, and other equipment while actually engaged in work upon the surface of a highway but shall apply to such persons and vehicles when traveling to or from such work.  
Adopted 1/21/2003

### **503.06 Operating Motor Vehicle without License**

Any person who drives a motor vehicle on any street or public highway of the Town of Athens without a valid driver's license, or at a time when his or her privilege to do so has been lawfully suspended or revoked by this state or any other jurisdiction, shall be find not less than one hundred dollars nor more than five hundred dollars. Adopted 11/2/2101

### **503.07 Authorized Emergency Vehicles**

Provisions of Section 17C-2-5 Authorized Emergency Vehicles of the West Virginia Code, *ibid*, are hereby adopted.

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.

The driver of an authorized emergency vehicle may:

1. Park or stand, irrespective of the provisions of this chapter;
2. Proceed past a red or stop signal or stop sign, but only after slowing down as may be necessary for safe operation;
3. Exceed the speed limits so long as he does not endanger life or property;

4. Disregard regulations governing direction of movement of [or] turning in specified directions.

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 section twenty-six [§ 17C-15-26], article fifteen of this chapter 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. 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. Adopted 1/21/2003

### **503.09 Traffic Laws Apply to Persons Riding Animals and Driving Animal Drawn Vehicles**

Provisions of Section 17C-2-6 of the West Virginia Code, *ibid*, are hereby adopted.

§ 17C-2-6 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 chapter, except those provisions of this chapter which by their very nature can have no application. Adopted 1/21/2003

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

Article 505.01 Obedience to Traffic-Control Devices

Article 505.03 Traffic-Control Signal Legend

Article 505.05 Flashing Signals

Article 505.07 Interference with Official Traffic-Control Devices



### 505.01 Obedience to Traffic-Control Devices

Provisions of Section 17C-3-4 of the West Virginia Code, *ibid*, are hereby adopted.

§ 17C-3-4- Obedience to traffic-control devices; official signs to be in proper position, etc; penalty

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

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.

No provision of this chapter for which signs are required shall be enforced against an alleged violator if at the time and place of the alleged violation an official sign is not in proper position and sufficiently legible to be seen by an ordinarily observant person. Whenever a particular section does not state that signs are required, such section shall be effective even though no signs are erected or in place.  
Adopted 1/21/2003

### 505.03 Traffic Control Signal Legend

Provisions of Section 17C-3-5 of the West Virginia Code, *ibid.*, are hereby adopted.

§ 17C-3-5 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:

**Green alone or "go":**

Vehicular traffic facing the signal, except when prohibited under section two [§17C-12-2], article twelve of this chapter may proceed straight through or turn right or left unless a sign at such place prohibits either such turn. But vehicular traffic, including vehicles turning right or left, shall yield the right-of-way to other vehicles and to pedestrians lawfully within the intersection or an adjacent crosswalk at the time such signal is exhibited. Pedestrians facing the signal may proceed across the roadway within any marked or unmarked crosswalk.

**Yellow alone or "caution" when showing following the green or "go" signal:**

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

**Red alone or "stop":**

Vehicular traffic facing the signal shall stop before entering the crosswalk on the near side of the intersection or, if none, then before entering the intersection and shall remain standing until green or "go" is shown alone except as provided in paragraphs (2) and (3) of this subdivision (c).

A vehicle which is stopped in obedience to a red or "stop" signal as close as practicable at the entrance to the crosswalk on the near side of the intersection or, if none, then at the entrance to the intersection, may cautiously make a right turn but such vehicle shall yield the right-of-way to pedestrians lawfully within a crosswalk and to other vehicular traffic proceeding as directed by the signal at said intersection, except that local authorities in their respective jurisdictions may by ordinance prohibit any such right turn against a red or "stop" signal at any intersection within such jurisdiction, which ordinance shall be effective when a sign is erected at such intersection giving notice thereof.

A vehicle which is stopped in obedience to a red or "stop" signal as close as practicable at the entrance to the crosswalk on the near side of the intersection or, if none, then at the entrance to the intersection on a one-way street which intersects another one-way street on which traffic moves to the left, may cautiously make a left turn into said one-way street but such vehicle shall yield the right-of-way to pedestrians lawfully within a crosswalk and to other vehicular traffic proceeding as directed by the signal at said intersection, except that local authorities in their respective jurisdictions may by ordinance prohibit any such left turn against a red or "stop" signal at any intersection within such

jurisdiction, which ordinance shall be effective when a sign is erected at such intersection giving notice thereof.

No pedestrian facing such signal shall enter the roadway unless he can do so safely and without interfering with any vehicular traffic.

**Red with green arrow:**

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

No pedestrian facing such signal shall enter the roadway unless he can do so safely and without interfering with any vehicular traffic.

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.

The motorman of any streetcar shall obey the above signals as applicable to vehicles. Adopted 1/21/2003

### **505.05 Flashing Signals**

Provisions of Section 17C-3-7 of the West Virginia Code, *ibid.*, are hereby adopted. § 17C-3-7 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:

**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.

**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. Adopted 1/21/2003

## 505.07 Interference with Official Traffic-Control Devices

Provisions of Section 17C-3-9 of the West Virginia Code, *ibid*, are hereby adopted.

§ 17C-3-9 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.

Adopted 1/21/2003

## 507.00 Accidents

507.01 Accidents

507.03 Duty to Give Information and Render Aid

507.05 Duty upon Striking Unattended Vehicle

507.07 Duty upon Striking Fixtures upon a Highway

507.09 Immediate Report of Accidents

### 507.01 Accidents

The drivers of any vehicle involved in an accident 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 West Virginia Code 17C-4-3. 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.

§ 17C-4-3 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. Adopted 1/21/2003

### **507.03 Duty to Give Information and Render Aid**

Provisions of Section 17C-4-3 of the West Virginia Code, *ibid*, are hereby adopted.

§ 17C-4-3 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. Adopted 1/21/2003

### **507.05 Duty upon Striking Unattended Vehicle**

Provisions of Section 17C-4-4 of the West Virginia Code, *ibid*, are hereby adopted.

§ 17C-4-4 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. Adopted 1/21/2003

### **507.07 Duty upon Striking Fixture upon a Highway**

Provisions of Section 17C-4-5 of the West Virginia Code, *ibid*, are hereby adopted. § 17C-4-5 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 section seven [§ 17C-4-7] of this article. Adopted 1/21/2003

## 507.09 Immediate Report of Accidents

Provisions of Section 17C-4-6 of the West Virginia Code, *ibid*, are hereby adopted.

### § 17C-4-6 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 local police department if such accident occurs within a municipality, otherwise to the office of the county sheriff or the nearest office of the West Virginia state police. Adopted 1/21/2003

## 509.00 Serious Traffic Offenses

### 509.01 Reckless Driving

#### 509.01 Reckless Driving

Any person who drives any vehicle upon any street or highway, or upon any residential street, or in any parking area, or upon the way of any institution of higher education, whether public or private, or upon the ways of any state institution, or upon the property of the Mercer County Board of Education, in willful or wanton disregard for the safety of the persons or property in guilty of reckless driving. Provisions of Section 17C-5-3(a) of the West Virginia Code, *ibid*, are hereby adopted.

### § 17C-5-3 Reckless driving; penalties

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 department of natural resources pursuant to section three [§ 20-4-3, repealed], article four, chapter twenty of this Code in willful or wanton disregard for the safety of persons or property is guilty of reckless driving. Adopted 1/21/2003

## 511.00 Speed Restrictions

### 511.01 Speed Limitations Generally

### 511.03 Establishment of Town Speed Zones

### 511.05 Minimum Speed Regulations

## 511.01 Speed Limitations Generally

Provisions of Section 17C-6-1 of the West Virginia Code, *ibid*, are hereby adopted.

### § 17C-6-1 Speed limitations generally; penalty

No person may drive a vehicle on a 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 highways in compliance with legal requirements and the duty of all persons to use due care.

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.

Fifteen miles per hour in a school zone during school recess or while children are going to or leaving school during opening or closing hours. A school zone is all school property including school grounds and any street or highway abutting such school grounds and extending one hundred twenty-five feet along such street or highway from the school grounds. The speed restriction does not apply to vehicles traveling on a controlled-access highway which is separated from the school or school grounds by a fence or barrier approved by the division of highways;

Twenty-five miles per hour in any business or residence district;  
Fifty-five miles per hour on open country highways, except as otherwise provided by this chapter.  
The speeds set forth in this section may be altered as authorized in sections two and three [§§ 17C-6-2 and 17C-6-3] of this article.

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.

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.

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 six months, or both.

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 six months, or both.

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 section four [§ 17B-3-4], article three, chapter seventeen-b of this 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 chapter seventeen- e [§§ 17E-1-1 et seq.] of this code, if the offense was committed while operating a commercial vehicle.

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 section four [§ 17B-3-4], article three, chapter seventeen-b of this 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 chapter seventeen-e [§§ 17E-1-1 et seq.] of this code, if the offense was committed while operating a commercial vehicle.

Adopted 1/21/2003

### 511.03 Establishment of Town Speed Zones

Whenever the Athens Town Council shall determine upon the basis of an engineering and traffic investigation that any speed limit set forth in this article is greater or lesser than is reasonable or safe under the conditions found to exist at any intersection or other place or upon any part of a highway, said Council may 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 other place or part of the highway. See Section 17C-6-2 of the West Virginia Code.

#### § 17C-6-2 Establishment of state speed zones

Whenever the state road commissioner shall determine upon the basis of an engineering and traffic investigation that any speed limit set forth in this article is greater or less than is reasonable or safe under the conditions found to exist at any intersection or other place or upon any part of a highway, said commissioner may 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 other place or part of the highway. Adopted 1/21/2003

## 511.05 Minimum Speed Regulations

Provisions of Section 17C-6-3 of the West Virginia Code, *ibid.*, are hereby adopted.

### § 17C-6-3 When local authorities may alter speed limits

At intersection -- Whenever local authorities within their respective jurisdictions determine upon the basis of an engineering and traffic investigation that the speed permitted under this chapter at any intersection is greater than is reasonable or safe under the conditions found to exist at such intersection, such local authority 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.

Authority to increase twenty-five mile limit -- Local authorities in their respective jurisdictions may in their discretion, but subject to subsection (e) of this section, authorize by ordinance higher speeds than those stated in section one [§ 17C-6-1] of this article 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 local authorities shall not have authority to modify or alter the basic rule set forth in subsection (a), section one of this article or in any event to authorize by ordinance a speed in excess of fifty-five miles per hour.

Authority to decrease fifty-five mile limit -- Whenever local authorities within their respective jurisdictions determine upon the basis of an engineering and traffic investigation that the speed under this chapter 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, the local authority 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.

Authority to decrease twenty-five mile limit. -- A municipality 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 article 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.

Alteration of limits on state highways in municipalities. --  
Alteration of limits on state highways or extensions thereof in a  
municipality by local authorities shall not be effective until such  
alteration has been approved by the commissioner of highways. Adopted  
1/21/2003

## 513.00 Driving on Right Side of Roadway, Overtaking and Passing, etc.

513.01 Driving on Right Side of Roadway; Exemptions  
513.03 Passing Vehicles Proceeding in Opposite Directions  
513.05 Overtaking and Passing Vehicles Proceeding in Same Direction  
Passing on the Left Generally  
513.07 When Overtaking on the Right is Permitted  
513.09 Limitations on Overtaking on the Left  
513.11 Further Limitations on Driving to Left of Center of Roadway  
513.13 No Passing Zones  
513.15 One Way Roadways and Rotary Traffic Islands  
513.17 Driving on Roadways Laned for Traffic  
513.19 Following Too Closely

### 513.01 Driving on Right Side of Roadway, Exemptions

Provisions of Section 17C-7-1 of the West Virginia Code, *ibid*, are  
hereby adopted.

§ 17C-7-1 Driving on right side of roadway; exceptions; penalty

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.
5. 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.

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.  
Adopted 1/21/2003

### 513.03 Passing Vehicles Proceeding in Opposite Directions

Provisions of Section 17C-7-2 of the West Virginia Code, *ibid*, are hereby adopted.

§ 17C-7-2 Passing vehicles proceeding in opposite directions; penalty

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.

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.  
Adopted 1/21/2003

### 513.05 Overtaking and Passing Vehicles Proceeding in Same Direction - Passing on the Left Generally

Provisions of Section 17C-7-3 of the West Virginia Code, *ibid*, are hereby adopted.

§ 17C-7-2 Passing vehicles proceeding in opposite directions; penalty

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.

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.  
Adopted 1/21/2003

### 513-07 Same - When Overtaking on the Right is Permitted

Provisions of Section 17C-7-4 of the West Virginia Code, *ibid*, are hereby adopted.

§ 17C-7-4 Same -- When overtaking on the right is permitted

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

1. When the vehicle overtaken is making or about to make a left turn;
2. Upon a street or highway with unobstructed pavement not occupied by parked vehicles of sufficient width for two or more lines of moving vehicles in each direction;
3. Upon a one-way street, or upon any roadway on which traffic is restricted to one direction of movement, where the roadway is free from obstructions and of sufficient width for two or more lines of moving vehicles.
4. 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. Adopted 1/21/2003

### 513.09 Same - No Passing Zones

Provisions of Section 17C-7-5 of the West Virginia Code, *ibid*, are hereby adopted.

§ 17C-7-5 Same -- Limitations on overtaking on the left; penalty

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.

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. Adopted 1/21/2003

### 513.11 Same - Further Limitations to Driving to Left of Center of Roadway

Provisions of Section 17C-7-6 of the West Virginia State Cod, *ibid*, are hereby adopted.

§ 17C-7-6 Same -- Further limitations on driving to left of center of roadway; penalty

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

1. When approaching the crest of a grade or upon a curve in the highway where the driver's view is obstructed within such distance as to create a hazard in the event another vehicle might approach from the opposite direction;
2. When approaching within one hundred feet of or traversing any intersection or railroad grade crossing;
3. When the view is obstructed upon approaching within one hundred feet of any bridge, viaduct, or tunnel.

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

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.  
Adopted 1/21/2003

### 513.13 Same - No Passing Zones

Provisions of Section 17C-7-7 of the West Virginia Code, *ibid*, are hereby adopted.

§ 17C-7-7 Same -- No-passing zones; penalty

The commissioner of highways is hereby authorized to determine those portions of any highway 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.

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.  
Adopted 1/21/2003

### 513.15 One Way Roadways and Rotary Traffic Islands

Provisions of Section 17C-7-8 of the West Virginia Code, *ibid*, are hereby adopted.

§ 17C-7-8 One-way roadways and rotary traffic islands; penalty

The commissioner of highways may designate any highway or any separate roadway under its jurisdiction for one-way traffic and shall erect appropriate signs giving notice thereof.

Upon a roadway designated and sign posted for one-way traffic a vehicle shall be driven only in the direction designated.

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

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.  
Adopted 1/21/2003

### 513.17 Driving on Roadways Laned for Traffic

Provisions of Section 17C-7-9 of the West Virginia Code, *ibid*, are hereby adopted.

§ 17C-7-9 Driving on roadways laned for traffic; penalty

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

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

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. Adopted 1/21/2003

### 513.19 Following Too Closely

Provisions of Section 17C-7-10 of the West Virginia Code, *ibid*, are hereby adopted.

#### § 17C-7-10 Following too closely

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.

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.

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. Adopted 1/21/2003



## 515.00 Turning and Starting and Signals on Stopping and Turning

515.01 Required Positions and Method of Turning at the Intersections  
515.03 Right Turns  
515.05 Left Turns on Two-Way Roadways  
515.07 Left Turns on Other Than Two-Way Roadways  
515.09 Local Authorities May Specify Different Course for Turns  
515.11 Turning on Curve or Crest of Grade Prohibited  
515.13 Starting Park3d, etc., Vehicle  
513.15 Turning Movements and Required Signals  
513.17 Signals to be given by Hand and Arm or Signal Device Article  
513.19 Method of Giving Hand and Arm Signals

### 515.01 Required Position and Method of Turning at the Intersections

Provisions of Section 17C-8-1 of the West Virginia Code, *ibid*, are hereby adopted.

§ 17C-8-1- Required position and method of turning at intersections

Driver of a vehicle intending to turn at an intersection shall do so as provided in this article. Adopted 1/21/2003

### 515.03 Right Turns

Provisions of Section 17C-8-2 of the West Virginia Code, *ibid*, are hereby adopted.

§ 17C-8-2 Right turns; penalty

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.

Any person violating the provisions of this section is guilty of a misdemeanor and, upon conviction thereof, shall be fined no 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. Adopted 1/21/2003

### 515.05 Left Turns on Two-Way Roadways

Provisions of Section 17C-8-3 of the West Virginia Code, *ibid*, are hereby adopted.

§ 17C-8-3 Left turns on two-way roadways; penalty

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.

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.

Adopted 1/21/2003

### **515.07 Left Turns on Other than Two-Way Roadways**

Provisions of Section 17C-8-4 of the West Virginia Code, *ibid*, are hereby adopted.

§ 17C-8-4 Left turns on other than two-way roadways; penalty

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.

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.

Adopted 1/21/2003

### **515.09 Local Authorities May Specify Different Course For Turns**

Provisions of Section 17C-8-5 of the West Virginia Code, *ibid*, are hereby adopted.

§ 17C-8-5 Local authorities may specify different course for turns

Local authorities in their respective jurisdictions may cause markers, buttons, or signs to be placed within or adjacent to intersections and thereby require and direct that a different course from that specified in this article be traveled by vehicles turning at an intersection, and when markers, buttons or signs are so placed no driver

of a vehicle shall turn a vehicle at an intersection other than as directed and required by such markers, buttons, or signs. Adopted 1/21/2003

#### 515.11 Turning on Curve or Crest of Grade Prohibited

Provisions of Section 17C-8-6 of the West Virginia Code, *ibid*, are hereby adopted.

§ 17C-8-6 Turning on curve or crest of grade prohibited; penalty

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.

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.

Adopted 1/21/2003

#### 515.13 Starting Parked, etc., Vehicle

Provisions of Section 17C-8-7 of the West Virginia Code, *ibid*, are hereby adopted.

§ 17C-8-7 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.

Adopted 1/21/2003

### 515.15 Turning Movements and Required Signals

Provisions of Sections 17C-8-8 of the West Virginia Code, *ibid*, are hereby adopted.

#### § 17C-8-8 Turning movements and required signals; penalty

No person shall turn a vehicle at an intersection unless the vehicle is in proper position upon the roadway as required in sections two, three, four or five of this article, or turn a vehicle to enter a private road or driveway or otherwise turn a vehicle from a direct course or move right or left upon a roadway unless and until such movement can be made with reasonable safety. No person shall so turn any vehicle without giving an appropriate signal in the manner hereinafter provided in the event any other traffic may be affected by such movement.

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.

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.

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. Adopted 1/21/2003

### 515.17 Signals to be Given by Hand and Arm or Signal Device

Provisions of Sections 17C-8-9 of the West Virginia Code, *ibid*, are hereby adopted.

#### § 17C-8-9 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. Adopted 1/21/2003

## 515.19 Method of Giving Hand and Arm Signals

Provisions of Section 17C-8-10 of the West Virginia Code, *ibid*, are hereby adopted.

### § 17C-8-10 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:

Left turn. -- Hand and arm extended horizontally.

Right turn. -- Hand and arm extended upward.

Stop or decrease speed. -- Hand and arm extended downward.

Adopted 1/21/2003

## 517.00 Right-of-Way

517.01 Vehicle Approaching or Entering Intersection

517.03 Vehicle Turning Left at Intersection

517.05 Vehicle Entering Through Highway or Stop Intersections

517.07 Vehicle Entering Highway from Private Road or Driveway

517.09 Operation of Vehicles on Approach of Authorized Emergency Vehicles

517.01 Vehicle Approaching or Entering Intersection

Provisions of Section 17C-9-1 of the West Virginia Code, *ibid*, are hereby adopted.

### § 17C-9-1 Vehicle approaching or entering intersection

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.

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.

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

Adopted 1/21/2003

### 517.03 Vehicle Turning Left Intersection

Provisions of Section 17C-9-2 of the West Virginia Code, *ibid.*, are hereby adopted.

§ 17C-9-2 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 chapter, 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. Adopted 1/21/2003

### 517.05 Vehicle Entering Through Highway or Stop Intersections

Provisions of Section 17C-9-3 of the West Virginia Code, *ibid.*, are hereby adopted.

§ 17C-9-3 Vehicle entering through highway or stop intersections

The driver of a vehicle shall stop as required by section five [§ 17C-12- 5], article twelve of this chapter 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.

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. Adopted 1/21/2003

### 517.07 Vehicle Entering Highway from Private Road or Driveway

Provisions of Section 17C-9-4 of the West Virginia Code, *ibid.*, are hereby adopted.

§ 17C-9-4 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. Adopted 1/21/2003

## 517.09 Operation of Vehicles on Approach of Authorized Emergency Vehicle

Provisions of Section 17C-9-5 of the West Virginia Code, *ibid.*, are hereby adopted.

§ 17C-9-5 Operation of vehicles and streetcars on approach of authorized emergency vehicles

Upon the immediate approach of an authorized emergency vehicle equipped with at least one flashing lighted lamp of a color authorized by section twenty-six [§ 17C-15-26], article fifteen of this chapter, 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:

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.

Upon the approach of an authorized emergency vehicle, as above stated, the motorman of every streetcar shall immediately stop such car clear of any intersection and keep it in such position until the authorized emergency vehicle has passed, except when otherwise directed by a police officer.

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. Adopted 1/21/2003

## 519.00 Pedestrians Subject to Traffic Regulations: Powers of Local Authorities

- 519.01 Pedestrians Subject to Traffic Regulations: Powers of Local Authorities
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### **519.01 Pedestrians Subject to Traffic Regulations: Powers of Local Authorities**

Provisions of Section 17C-10-1 of the West Virginia Code, *ibid*, are hereby adopted.

§ 17C-10-1 Pedestrians subject to traffic regulations; powers of local authorities

Pedestrians shall be subject to traffic-control signals at intersections as provided in section five [§ 17C-3-5], article three of this chapter unless required by local ordinance to comply strictly with such signals, but at all other places pedestrians shall be accorded the privileges and shall be subject to the restrictions stated in this article.

Local authorities are hereby empowered by ordinance to require that pedestrians shall strictly comply with the directions of any official traffic-control signal and may by ordinance prohibit pedestrians from crossing any roadway in a business district or any designated highways except in a crosswalk. Adopted 1/21/2003

### **519.03 Pedestrians' Right-of-Way in Crosswalks**

Provisions of Section 17C-10-2 of the West Virginia Code, *ibid*, are hereby adopted.

§ 17C-10-2 Pedestrians' right-of-way in crosswalks

When traffic-control signals are not in place or not in operation the driver of a vehicle shall yield the right-of-way, slowing down or stopping if need be to so yield, to a pedestrian crossing the roadway within a crosswalk when the pedestrian is upon the half of the roadway upon which the vehicle is traveling, or when the pedestrian is approaching so closely from the opposite half of the roadway as to be in danger, but no pedestrian shall suddenly leave a curb or other place of safety and walk or run into the path of a vehicle which is so close that it is impossible for the driver to yield. This provision shall not apply under the conditions stated in section three [§ 17C-10-3(b)], subsection (b), of this article.

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.

Adopted 1/21/2003



### **519.05 Crossing at Other Than Crosswalks**

Provisions of Section 17C-10-3 of the West Virginia Code, *ibid*, are hereby adopted.

#### **§ 17C-10-3 Crossing at other than crosswalks**

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.

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.

Between adjacent intersections at which traffic-control signals are in operation pedestrians shall not cross at any place except in a marked crosswalk. Adopted 1/21/2003

### **519.07 Drivers to Exercise Due Care**

Provisions of Section 17C-10-4 of the West Virginia Code, *ibid.*, are hereby adopted.

#### **§ 17C-10-4 Drivers to exercise due care**

Notwithstanding the foregoing provisions of this article every driver of a vehicle shall exercise due care to avoid colliding with any pedestrian upon any roadway and shall give warning by sounding the horn when necessary and shall exercise proper precaution upon observing any child or any confused or incapacitated person upon a roadway. Adopted 1/21/2003

### **519.09 Pedestrians to Use Right Half of Crosswalks**

Provisions of Section 17C-10-5 of the West Virginia State Code, *ibid*, are hereby adopted.

#### **§ 17C-10-5 Pedestrians to use right half of crosswalks**

Pedestrians shall move, whenever practicable, upon the right half of crosswalks. Adopted 1/21/2003

### **519.11 Pedestrians on Roadways: Soliciting Rides**

Provisions of Section 17C-10-6 of the West Virginia Code, *ibid*, are hereby adopted.

§ 17C-10-6 Pedestrians on roadways; soliciting rides

Where sidewalks are provided it shall be unlawful for any pedestrian to walk along and upon an adjacent roadway.

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.

No person shall stand in a roadway for the purpose of soliciting a ride from the driver of any vehicle. Adopted 1/21/2003

### **519.13 Penalty for Pedestrians Violating the Provisions of this Article**

Provisions of Section 17C-10-7 of the West Virginia Code, *ibid*, are hereby adopted.

§ 17C-10-7 Penalty for pedestrians violating the provisions of this article

Any person violating the provisions of this article 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. Adopted 1/21/2003

### **519.15 Persons Working on Streets and Highways**

Provisions of Section 17C-10-8 of the West Virginia Code, *ibid*, are hereby adopted.

§ 17C-10-8 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. Adopted 1/21/2003

## 521.00 Operation of Bicycles and Play Vehicles

- 521.01 Obedience to Article; Duty of Parents and Guardians;  
Applicability of Article to Bicycles
- 521.03 Traffic Laws Apply to Persons Riding Bicycles
- 521.05 Riding on Bicycle Seats; Carrying More Than One Person on  
Bicycle
- 521.07 Clinging to Vehicles
- 521.09 Riding on Roadways and Bicycle Paths
- 521.11 Carrying Articles
- 521.13 Lamps and Other Equipment on Bicycles
- 521.15 Definitions
- 521.17 Requirements for Helmet Use
- 521.19 Penalties
- 521.21 All-Terrain Vehicles

### 521.01 Obedience to Article; Duty of Parents and Guardians; Applicability of Article to Bicycles

Provisions of Section 17C-11-1 of the West Virginia Code, *ibid*, are hereby adopted.

§ 17C-11-1 Obedience to article; duty of parents and guardians; applicability of article to bicycles

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

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

These regulations applicable to bicycles shall apply whenever a bicycle is operated upon any highway or upon any path set aside for the exclusive use of bicycles subject to those exceptions stated herein.  
Adopted 1/21/03

### 521.03 Traffic Laws Apply to Persons Riding Bicycles

Provisions of Section 17C-11-2 of the West Virginia Code, *ibid*, are hereby adopted.

§ 17C-11-2 Traffic laws apply to persons riding bicycles.

Every person riding a bicycle upon a roadway shall be granted all of the rights and shall be subject to all of the duties applicable to the driver of a vehicle by this chapter, except as to special regulations in this article and except as to those provisions of this chapter which by their nature can have no application. Adopted 1/21/03

### **521.05 Riding on Bicycle Seats; Carrying More than One Person on Bicycle**

Provisions of Section 17C-11-3 of the West Virginia Code, *ibid*, are hereby adopted.

§ 17C-11-3 Riding on bicycle seats; carrying more than one person on bicycle.

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

No bicycle shall be used to carry more persons at one time than the number for which it is designed and equipped. Adopted 1/21/03

### **521.07 Clinging to Vehicles**

Provisions of Section 17C-11-4 of the West Virginia Code, *ibid*, are hereby adopted.

§ 17C-11-4 Clinging to vehicles

No person riding upon any bicycle, coaster, roller skates, sled, or toy vehicle shall attach the same or himself to any streetcar or vehicle upon a roadway. Adopted 1/21/03

### **521.09 Riding on Roadways and Bicycle Paths**

Provisions of Section 17C-11-5 of the West Virginia Code, *ibid*, are hereby adopted.

§ 17C-11-5 Riding on roadways and bicycle paths

Every person operating a bicycle upon a roadway shall ride as near to the right side of the roadway as practicable, exercising due care when passing a standing vehicle or one proceeding in the same direction.

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

Whenever a usable path for bicycles has been provided adjacent to a roadway, bicycle riders shall use such path and shall not use the roadway. Adopted 1/21/03

## 521.11 Carrying Articles

Provisions of Section 17C-11-6 of the West Virginia Code, *ibid.*, are hereby adopted.

§ 17C-11-6 Carrying articles

No person operating a bicycle shall carry any package, bundle, or article which prevents the driver from keeping at least one hand upon the handlebars. Adopted 1/21/03

## 521.13 Lamps and Other Equipment on Bicycle

Every bicycle when in use at night time shall be equipped with a lamp on the front which shall emit a white light visible from a distance of at least five hundred (500) feet to the front and with a red reflector on the rear of a type approved by the State Police Department which shall be visible from a distance of the upper beams of head lamps on a motor vehicle. A lamp emitting a red light visible from a distance of five hundred (500) feet to the rear may be used in addition to the red reflector.

Every bicycle shall be equipped with a brake which will enable the operator to make the braked wheels skid on a dry, level, clean pavement. Adopted 1/21/03

## 521.15 Definitions

Provisions of Section 17C-11A-3 of the West Virginia Code, *ibid.*, are hereby adopted.

§ 17C-11A-3 Definitions as used in this article:

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

**Tricycle** means a three-wheeled human-powered vehicle designed for use as a toy by a single child under the age of six years, the seat of which is no more than two feet from ground level. "Public roadway" means a right-of-way under the jurisdiction and control of this state or a local political subdivision thereof for use primarily by motor vehicles.

**Public Bicycle Path** means a right-of-way under the jurisdiction and control of this state or a local political subdivision thereof for use primarily by bicycles and pedestrians.

**Other Public Right-of-Way** means any right-of-way other than a public roadway or public bicycle path that is under the jurisdiction and control of this state or a local political subdivision thereof and is designed for use and used by vehicular or pedestrian traffic.

**Protective Bicycle Helmet** means a piece of headgear which meets or exceeds the impact standards for protective bicycle helmets set by the American national standards institute (ANSI) or the Snell memorial foundation's standards for protective headgear or American society for testing and materials (ASTM) for use in bicycling.

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

**Operator** means a person who travels on a bicycle seated on a saddle seat from which that person is intended to and can pedal the bicycle.  
Adopted 1/21/03

### 521.17 Requirements for Helmet Use

Provisions of Section 17C-11A-4 of the West Virginia Code, *ibid*, are hereby adopted.

#### § 17C-11A-4 Requirements for helmet use

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

It is unlawful for any parent or legal guardian of a person under fifteen years of age to knowingly permit such person to operate or be a passenger on a bicycle or on any attachment to a bicycle used on a public roadway, public bicycle path or other public right-of-way unless at all times when the person is so engaged he or she wears a protective bicycle helmet of good fit, fastened securely upon the head with the straps of the helmet. Adopted 1/21/03

### 521.19 Penalties

Provisions of Section 17C-11A-5 of the West Virginia Code, *ibid*, are hereby adopted.

#### § 17C-11A-5 Sale of bicycle helmets

Any helmet sold or offered for sale for use by operators and passengers of bicycles shall be conspicuously labeled in accordance with the standard described in subsection (f), section three [§ 17C-11A-3(f)] of this article, which shall constitute the manufacturer's certification

that the helmet conforms to the applicable safety standards. Adopted 1/21/03

#### **521.21 All-Terrain Vehicles-Prohibition within Town Limits**

The riding, operation or other use of all-terrain vehicles within or upon the streets, alleys, sidewalks, parking lots and other governmentally owned, leased, or controlled property situated within the Town limits of Athens, is prohibited except as authorized in Sections 521.25 and 521.27. Adopted 1/21/03

#### **521.23 Violation of Article**

Any violation of any provision of this article constitutes the commission of a misdemeanor. Any person adjudged guilty and convicted of any first offense shall be subject to a fine of not less than Twenty-Five Dollars (\$25.00), nor more than One Hundred Dollars (\$100.00). Any person adjudged guilty and convicted of any second or further offense shall be subject to a fine of not less than One Hundred Dollars (\$100.0) nor more than Five Hundred Dollars (\$500.00). Adopted 1/21/03

#### **521.25 Private Property Exception**

Notwithstanding any other provision of this article, it shall not be an offense for any person licensed to operate a motor vehicle within the State to ride, operate, or otherwise use an all-terrain vehicle upon any private property located within the Town limits. Adopted 1/21/03

#### **521.27 Permit Exception**

Notwithstanding any other provision of this article, it shall not be an offense for any person licensed to operate a motor vehicle within the State to ride, operate or otherwise use an all-terrain vehicle upon property otherwise restricted for use, when such person is a participant in a duly organized exhibition, competition or parade authorized by the Council through an issuance of a permit by Council. Application for any permit to conduct any duly organized exhibition, competition or parade must be made with Council not less than thirty (30) days prior to the proposed date for conducting such an activity. Adopted 1/21/03

#### **521.29 Limitation of Liability**

Nothing in this article is intended or shall be construed so as to create or form the basis for any civil or administrative liability whatsoever on the part of the Town, or any of its officers, officials, employees or agents, for any injury or damage resulting to any person whomsoever as a consequence of any action or inaction on the part of the Town as related in the manner to the enforcement or non-enforcement of

this article by the Town's officers, officials, employees, or agents.  
Adopted 1/21/03

## 523.00 Special Stops Required

523.01 Vehicles Must Stop at Through Highways; Erection of Signs  
523.03 Stopping Before Emerging From alley or Private Driveway  
523.05 Overtaking and Passing School Bus; Signs and Warning Lights  
Upon Buses

### 523.01 Vehicles Must Stop at Through Highways; Erection of Signs

Every driver of a vehicle approaching a "Stop" sign shall stop before entering at 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 intersection 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. See Section 17C-12-5(d) of the West Virginia Code.

§ 17C-12-5 Vehicles must stop at through highways; erection of signs

Every driver of a vehicle and every motorman of a streetcar 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. Adopted 1/21/03

### 523.03 Stopping Before Emerging from Alley or Private Driveway

Provisions of Section 17-C-12-6 of the West Virginia Code, *ibid*, are hereby adopted.

§ 17C-12-6 Stopping before emerging from alley or private driveway; penalty

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.

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.

Adopted 1/21/03

### 523.05 Overtaking and Passing School Bus; Signs and Warning Lights Upon Buses

Provisions of Section 17C-12-7 of the West Virginia Code, *ibid.*, are hereby adopted.

§ 17C-12-7 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.

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 section eight [§ 17C-12-8] of this article, 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, or imprisoned in the county jail not more than six months, or both fined and imprisoned. 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.

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.

Adopted 1/21/03

## 525.00 Stopping, Standing and Parking

- 525.01 Stopping, Standing or Parking Outside of Business or Residence Districts
- 525.03 Officers Authorized to Remove Illegally Stopped Vehicles
- 525.05 Stopping, Standing or Parking Prohibited in Specified Places
- 525.07 Right and Left Parallel Parking; Angle Parking; Highway Signs Restricting Parking
- 525.09 Removal of Vehicles Parked, etc., on Controlled-Access Highway; Liability for Costs of Removal and Storage; Liens for Towing and Storage
- 525.11 Stopping, Standing or Parking Privileges for Disabled: Qualification; Application; Violation
- 525.13 Signs on Workers' and Church Buses; When Lawful for Such Buses to Stop on Highways and Streets
- 525.15 Disabled Parking Places on Private Facilities; Signs Designating Places

### 525.01 Stopping, Standing or Parking Outside of Business or Residence Districts

Provisions of Section 17C-13-1 of the West Virginia Code, *ibid*, are hereby adopted.

§ 17C-13-1 Stopping, standing or parking outside of business or residence districts; penalty

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.

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.

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. Adopted 1/21/03

### 525.03 Officers Authorized to Remove Illegally Stopped Vehicles

Provisions of Section 17C-13-2 of the West Virginia Code, *ibid*, are hereby adopted

§ 17C-13-2 Officers authorized to remove illegally stopped vehicles

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

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. Adopted 1/21/03

### 525.05 Stopping, Standing or Parking Prohibited in Specified Places

Provisions of Section 17C-13-3 of the West Virginia Code, *ibid*, are hereby adopted.

§ 17C-13-3 Stopping, standing or parking prohibited in specified places; penalty

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

1. On a sidewalk;
2. In front of a public or private driveway;
3. Within an intersection;
4. Within fifteen feet of a fire hydrant;
5. In a properly designated fire lane;
6. On a crosswalk;
7. Within twenty feet of a crosswalk at an intersection;
8. Within thirty feet upon the approach to any flashing beacon, stop sign or traffic-control signal located at the side of a roadway;
9. Between a safety zone and the adjacent curb or within thirty feet of points on the curb immediately opposite the ends of a safety zone, unless a different length is indicated by signs or markings;
10. Within fifty feet of the nearest rail of a railroad crossing;
11. Within twenty feet of the driveway entrance to any fire station and on the side of a street opposite the entrance to any fire station within seventy-five feet of the entrance (when properly signposted);
12. Alongside or opposite any street excavation or obstruction when stopping, standing or parking would obstruct traffic;

13. On the roadway side of any vehicle stopped or parked at the edge or curb of a street;
14. On any bridge or other elevated structure on a highway or within a highway tunnel;
15. At any place where official signs prohibit stopping;
16. Within twenty feet of any mail receptacle served regularly by a carrier using a motor vehicle for daily deliveries, if the parking interferes with or causes delay in the carrier's schedule;
17. On any controlled-access highway;
18. At any place on any highway where the safety and convenience of the traveling public is thereby endangered;
19. In front of a wheelchair accessible ramp or curb cut which is part of a sidewalk designed for use by the general public when the ramp or curb cut is properly marked with blue paint.

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.

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.  
Adopted 1/21/03

#### **525.07 Right and Left Parallel Parking; Angle Parking; Highway Signs Restricting Parking, etc.,**

Provisions of Section 17C-13-4 of the West Virginia Code, *ibid*, are hereby adopted

§ 17C-13-4 Right and left parallel parking; angle parking; highway signs restricting parking, etc; penalty

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.

Local authorities may by ordinance permit parking of vehicles with the left-hand wheels adjacent to and within eighteen inches of the left-hand curb of a one-way roadway.

Local authorities may by ordinance permit angle parking on any roadway, except that angle parking shall not be permitted on any federal-aid or state highway unless the division of highways has determined by resolution or order entered in its minutes that the roadway is of sufficient width to permit angle parking without interfering with the free movement of traffic.

The division of highways with respect to highways under its jurisdiction may place signs prohibiting or restricting the stopping, standing, or parking of vehicles on any 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. Adopted 1/21/03

#### **525.09 Removal of Vehicles Parked, etc., On Controlled Access Highway; Liability for Costs of Removal and Storage; Liens for Towing and Storage**

Provisions of Section 17C-13-5 of the West Virginia Code, *ibid*, are hereby adopted.

§ 17C-13-5 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 or employee of the state road commission [commissioner of highways], duly authorized by the commissioner, 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 section fourteen [§ 38-11-14], article eleven, chapter thirty-eight of this Code for the enforcement of other liens. Adopted 1/21/03

## 525.11 Stopping, Standing or Parking Privileges for Disabled; Qualification; Application; Violation

Provisions of Section 17C-13-6 of the West Virginia Code, *ibid*, are hereby adopted.

§ 17C-13-6 Stopping, standing or parking privileges for persons with a mobility impairment; definitions; qualification; special registration plates and removable windshield placards; expiration; application; violation; penalties

Any owner of a Class A or Class G motor vehicle subject to registration under the provisions of article three [ §§ 17A-3-1 et seq. ], chapter seventeen-a of this code, who is:

1. A person with a mobility impairment;
2. A relative of a person with a mobility impairment;
3. A person who regularly resides with a person with a mobility impairment; or
4. A person who regularly transports a person who has a mobility impairment, may submit an application for a special registration plate or a removable windshield placard.

Any person with a mobility impairment, any relative of a person with a mobility impairment, any person who regularly resides with a person with a mobility impairment or any person who regularly transports a person who has a mobility impairment may submit an application for a special registration plate or a removable windshield placard or both for a Class A or a Class G vehicle by submitting to the commissioner: An application on a form prescribed and furnished by the commissioner, specifying whether the applicant desires a special registration plate, a removable windshield placard, or both; and A certificate issued by a licensed physician stating that the applicant or the applicant's relative is a person with a mobility impairment, or that the person regularly residing with the applicant or regularly transported by the applicant is a person with a mobility impairment, as defined in this section, and furthermore, the physician shall specify whether the disability is temporary (not to exceed six months) or permanent (one to five years or more in expected duration).

Upon receipt of the completed application, the physician's certificate and the regular registration fee for the applicant's vehicle class, if the commissioner finds that the applicant qualifies for the special registration plate or a removable windshield placard as provided in this section, he or she shall issue to the applicant a special registration plate (upon remittance of the regular registration fee), or a removable windshield placard (red for temporary and blue for permanent), or both. Upon request, the commissioner shall also issue to any otherwise qualified applicant one additional placard having the same expiration date as the applicant's original placard. 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 handicapped 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.

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

**Mobility Impairment** means a person who, as determined by a licensed physician: Cannot walk two hundred feet without stopping to rest; Cannot walk without the use of or assistance from a brace, cane, crutch, prosthetic device, wheelchair, other assistive device or another person; 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; Uses portable oxygen; 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 Is severely limited in his or her ability to walk because of an arthritic, neurological, orthopedic or other physical condition;

**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;

**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: 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; An identification number measuring one inch in height; An expiration date in numbers measuring one inch in height; and The seal or other identifying symbol of the issuing authority;

**Regular Registration Fee** means the standard registration fee for a vehicle of the same class as the applicant's;

**Public Entity** means state or local government or any department, agency, special purpose district or other instrumentality of a state or local government;

**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;

**Place(s) 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: Inns, hotels, motels and other places of lodging; Restaurants, bars or other establishments serving food or drink; Motion picture houses, theaters, concert halls, stadiums or other places of exhibition or entertainment; Auditoriums, convention centers, lecture halls or other places of public gatherings; Bakeries, grocery stores, clothing stores,

hardware stores, shopping centers or other sales or rental establishments; 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; Terminals, depots or other stations used for public transportation; Museums, libraries, galleries or other places of public display or collection; Parks, zoos, amusement parks or other places of recreation; 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 Gymnasiums, health spas, bowling alleys, golf courses or other places of exercise or recreation

**Commercial Facility** means a facility whose operations affect commerce and which are intended for nonresidential use by a private entity.

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 hereunder, is guilty of a misdemeanor and, upon conviction thereof, in addition to any other penalty he or she may otherwise incur, shall be fined one hundred dollars.

The commissioner shall set the expiration date for special registration plates and permanent removable windshield placards on the last day of a given month and year, to be valid for a minimum of one year but not more than five years, after which time a new application must be submitted to the commissioner. After the commissioner receives the new application, signed by a certified physician, the commissioner shall issue: (i) A new special registration plate or new permanent removable windshield placard; or (ii) official labels imprinted with the new expiration date and designed so as to be placed over the old dates on the original registration plate or windshield placard.

The commissioner shall set the expiration date of temporary removable windshield placards to be valid for a period of approximately six months after the application was received and approved by the commissioner.

The commissioner shall issue to each applicant who is granted a special registration plate or windshield placard an identification card bearing the applicant's name, assigned identification number and expiration date. The applicant must thereafter carry this identification card on his or her person whenever parking in a handicapped parking space.



A handicapped parking space should comply with the provisions of the Americans with Disabilities Act 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 access aisle for vans having side mounted handicap lifts. Access aisles should be marked using diagonal stripes or other appropriate markings denoting that the space is a no-parking zone. 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 handicapped parking.

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.

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 mobility impairment during the hours that those buildings are open for business.

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. To the extent any provision of any ordinance of any political subdivision of this state is contrary to the provisions of this section, the provisions of this section take precedence and apply.

The privileges provided for in this subsection apply only during those times when the vehicle is being used for the transportation 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 transportation of a person with a mobility impairment is guilty of a misdemeanor and, upon conviction thereof, in addition to any other penalty he or she may otherwise incur, shall be fined one hundred dollars.

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 handicapped parking with signs or instructions displaying the international symbol of access, either by itself or with explanatory text. Such signs may be mounted on a post or a wall in front of the handicapped

parking space and instructions may appear on the ground or pavement, but use of both methods is preferred. Handicapped 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 handicapped 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.

Signs erected in the future that designate areas as "handicapped parking" or that display the international symbol of access shall also include the words "\$100 fine".

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 handicapped 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.

Parking enforcement personnel who otherwise enforce parking violations are hereby authorized to issue citations for violations of this section.

Law-enforcement agencies may establish a program to utilize trained volunteers to collect information necessary to issue citations to persons who illegally park in designated handicapped parking spaces. Any law-enforcement agency choosing to establish a program shall provide for workers' compensation and liability coverage. The volunteers shall photograph the illegally parked vehicle and complete a form, to be developed by supervising law-enforcement agencies, that includes the vehicle's license plate number, date, time and location of the illegally parked vehicle. The photographs must show the vehicle in the handicapped space and a readable view of the license plate. Within the discretion of the supervising law-enforcement agency, the volunteers may issue citations or the volunteers may submit the photographs of the illegally parked vehicle and the form to the supervising law-enforcement agency, who may issue a citation, which includes the photographs and the form, to the owner of the illegally parked vehicle. Volunteers shall be trained on the requirements for citations for vehicles parked in marked, zoned or designated handicapped parking areas by the supervising law-enforcement agency.

The commissioner shall establish a grace period for individuals who, on the effective date of the amendment adding this subsection, hold special registration plates or removable windshield placards bearing no expiration date to submit their applications for newly issued special registration plates and windshield placards, after which time any undated registration plate or windshield placard is invalid and subject to confiscation by any duly appointed law-enforcement officer.

The commissioner shall adopt and promulgate rules in accordance with the provisions of article three [ §§ 29A-3-1 et seq. ], chapter twenty-nine-a of this code to effectuate the provisions of this section. Adopted 1/21/03

### 525.13 Signs on Workers' and Church Buses; When Lawful for Such Buses to Stop on Highways and Streets

Provisions of Section 17C-13-8 of the West Virginia Code, *ibid.*, are hereby adopted.

§ 17C-13-7 Signs on workers' and church buses; when lawful for such buses to stop on highways and streets

Any bus used primarily for the transportation of workers only and any bus operated by a church may bear upon the front and rear thereof a plainly visible sign, either painted or affixed on the body of the bus proper, or attached securely to the bus, containing the words "workers' bus" or "church bus," respectively, in letters not less than eight inches in height. Any bus used primarily for the transportation of workers only and any bus operated by a church and bearing signs in that manner may lawfully stop upon the paved portion of any highway or street where there is no loading zone or pull-off adjacent to the highway or street to load or discharge persons: Provided, That such bus shall be equipped with warning lamps permitted under subsection (d), section nineteen [ § 17C-15-19(d) ], article fifteen of this chapter, and shall use such warning lamps when stopped on the highway or decreasing speed in order to stop, in order to warn the operators of other vehicles of a possible traffic hazard. Adopted 1/21/03

## 527.00 Miscellaneous Rules

- 527.01 Unattended Motor Vehicle
- 527.03 Limitations on Backing
- 527.05 Obstruction to Driver's View or Driving Mechanism Article
- 527.07 Passengers in Seat with Operator
- 527.09 Passengers on Running Board
- 527.11 Following Authorized Emergency Vehicles
- 527.13 Crossing Fire Hose
- 527.15 Putting Glass, etc., on Highway
- 517.17 Vehicles Parked on Private Property

## 527.01 Unattended Motor Vehicle

Provisions of Section 17C-14-1 of the West Virginia Code, *ibid*, are hereby adopted.

§ 17C-14-1 Unattended motor vehicle; penalty

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.

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.  
Adopted 1/21/03

## 527.03 Limitations on Backing

Provisions of Section 17C-14-2 of the West Virginia Code, *ibid*, are hereby adopted.

§ 17C-14-2 Limitations on backing; penalty

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.

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.

Adopted 1/21/03

### 527.05 Obstruction to Driver's View of Driving Mechanism

Provisions of Section 17C-14-4 of the West Virginia Code, *ibid*, are hereby adopted.

§ 17C-14-4 Obstruction to driver's view or driving mechanism; penalty

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.

No passenger in a vehicle or streetcar 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 or streetcar.

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.  
Adopted 1/21/03

### 527.07 Passengers in Seat with Operator

Provisions of Section 17C-14-5 of the West Virginia Code, *ibid*, are hereby adopted.

§ 17C-14-5 Passengers in seat with operator; penalty

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 state: 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.

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.  
Adopted 1/21/03

## 527.09 Passengers on Running Board

Provisions of Section 17C-14-6 of the West Virginia Code, *ibid*, are hereby adopted.

§ 17C-14-6 Passengers on running board; penalty

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 state.

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.  
Adopted 1/21/03

## 527.11 Following Authorized Emergency Vehicles

Provisions of Section 17C-14-9 of the West Virginia Code, *ibid*, are hereby adopted.

§ 17C-14-9 Following authorized emergency vehicles; penalty

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.

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.  
Adopted 1/21/03

## 527.13 Crossing Fire Hose

Provisions of Section 17C-14-10 of the West Virginia Code, *ibid*, are hereby adopted.

§ 17C-14-10 Crossing fire hose; penalty

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

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. Adopted 1/21/03

### 527.15 Putting Glass, etc., on Highway

Provisions of Section 17C-14-11 of the West Virginia Code, *ibid*, are hereby adopted.

§ 17C-14-11 Putting glass, etc., on highway

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.

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.

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. Adopted 1/21/03

### 527.17 Vehicles Parked on Private Property

Provisions of Section 17C-14-13 of the West Virginia Code, *ibid*, are hereby adopted.

§ 17C-14-13 Vehicles parked on private property; penalty

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.

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.

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, if such vehicle is removed within a municipality, shall, in addition notify the police department of such municipality. Adopted 1/21/03

## 529.00 Violations of Chapter; Penalties for Misdemeanor

It is a misdemeanor for any person to violate any of the provisions of this chapter unless such violation is by this chapter or by law of this State declared to be a felony.

### 529.01 Violations of Chapter; Penalties

Every person convicted of a misdemeanor for a violation of any of the provisions of this chapter for which another penalty is not provided shall for a first conviction thereof be punished by a fine of not more than Five Hundred Dollars (\$500.00). See West Virginia Code Section 17C-18-1.

#### § 17C-18-1 Violations of chapter; penalties for misdemeanor

It is a misdemeanor for any person to violate any of the provisions of this chapter unless such violation is by this chapter or other law of this State declared to be a felony.

Every person convicted of a misdemeanor for a violation of any of the provisions of this chapter for which another penalty is not provided shall for a first conviction thereof be punished by a fine of not more than one hundred dollars or by imprisonment for not more than ten days; for a second such conviction within one year thereafter such person shall be punished by a fine of not more than two hundred dollars or by imprisonment for not more than twenty days or by both such fine and imprisonment; upon a third or subsequent conviction such person shall be punished by a fine of not more than five hundred dollars or by imprisonment for not more than six months or both such fine and imprisonment. Adopted 1/21/03



## 531 Parties, Procedures Upon Arrest and Reports in Criminal Cases

### 531.01 Unattended Motor Vehicle

Provisions of Section 17C-19-1 of the West Virginia Code, *ibid*, are hereby adopted.

#### § 17C-19-1 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 chapter is likewise guilty of such offense. Adopted 1/21/03

### 531.03 When Person Arrested Must Be Taken Immediately Before Magistrate Court

Provisions of Section 17C-19-3 of the West Virginia Code, *ibid.*, are hereby adopted.

§ 17C-19-3 When person arrested must be taken immediately before a magistrate or court

Whenever any person is arrested for any violation of this chapter punishable as a misdemeanor, the arrested person shall be immediately taken before 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:

When a person arrested demands an immediate appearance before a magistrate or court;

When the person is arrested upon a charge of negligent homicide;

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;

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;

When the person is arrested upon a charge of violating section fourteen [§ 17C-17-14], article seventeen of this chapter relating to weight violations, except as otherwise provided in that section;

When the person arrested is a resident of a state that has not entered into a nonresident violator compact with this State;

In any other event when the person arrested refuses to give his written promise to appear in court as provided in section four [§ 17C-19-4] of this article.

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 section four [§ 17C-19-4] of this article and may not take the person immediately before a magistrate or court, except under the terms of the compact or under the circumstances set forth in subsection (a) of this section. Adopted 1/21/03

### **531.05 When Person Arrested to be Given Five (5) Days; Notice to Appear in Court**

Provisions of Section 17C-19-4 of the West Virginia Code, *ibid*, are hereby adopted.

§ 17C-19-4 When person arrested to be given five days' notice to appear in court

Whenever a person is arrested for any violation of this chapter punishable as a misdemeanor, and such person is not immediately taken before a justice [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.

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.

The place specified in said notice to appear must be before a justice [magistrate] or court within the township or county in which the offense charged is alleged to have been committed and who has jurisdiction of such offense.

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. Adopted 1/21/03

### 531.07 Procedure Prescribed by Article Not Exclusive

Provisions of Section 17C-19-5 of the West Virginia Code, *ibid*, are hereby adopted.

§ 17C-19-5 Procedure prescribed by article not exclusive

The following provisions of this article shall govern all police officers in making arrests without a warrant for violations of this chapter, 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. Adopted 1/21/03

## 533 Effect of Chapter

533.01 Constitutionality

533.03 Repeal of Existing Ordinances

### 533.01 Constitutionality

Provisions of Section 17C-12-1 of the West Virginia Code, *ibid*, are hereby adopted.

§ 17C-12-1 Obedience to signal indicating approach of train

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:

A clearly visible electric or mechanical signal device gives warning of the immediate approach of a railroad train;

A crossing gate is lowered or when a human flagman gives or continues to give a signal of the approach or passage of a railroad train;

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;

Any approaching railroad train is plainly visible and is in hazardous proximity to such crossing.

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.

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 or imprisoned for not more than ten days. 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. Adopted 1/21/03

### **533.03 Repeal of Existing Ordinance**

Provisions of Chapter V of the Town Ordinances existing of the date of passage of this ordinance are hereby repealed in their entirety. Adopted 1/21/03

## CHAPTER VI LAND USE AND ZONING

### 601.00 General

- 601.01 Purpose
- 601.02 Interpretation

#### 601.01 Purpose

Promoting the health, safety, and general welfare of the inhabitants of Athens, by lessening congestion in the streets, securing safety from fire panic and other dangers, facilitating the adequate provision of transportation, water, sewage, schools, parks, and other public requirements, conserving the value of buildings, and encouraging the most appropriate use of land. To accomplish these purposes, the Athens Town Council enacts this ordinance which was previously adopted and certified by the Planning Commission of the Town of Athens on January 17, 1991, which is to be enforced by this Ordinance and is incorporated therein by reference. Adopted 7/1/2003

#### 601.02 Interpretation

In interpreting and applying the provisions of this Chapter, they shall be held to be the minimum requirements for the promotion of the public health, safety, comfort, convenience and general welfare. Where the provisions of this Chapter impose greater restrictions than those of any statute, other ordinance or regulation, the provisions of the Chapter shall be controlling.

Where the provisions of any statute, ordinance or regulations impose greater restrictions than this Chapter, the provisions of such statute, ordinance or regulation shall be controlling. Adopted 7/1/2003

### 603.00 Definitions

- 603.01 General
- 603.02 Definition of Terms "Accessory Structure" through "Zoning Law"

#### 603.01 General

For the purpose of this zoning law, certain terms and words are defined as follows: The singular shall include the plural and the plural shall include the singular. The term "used" includes the words "arranged, designed or intended to be use," the term "occupied" includes the words "arranged, designed or intended to be occupied;" and the word "building" includes the word "structure." Adopted 7/1/2003

## 603.02 Definition of Terms

- Accessory Structure, Building:** A building, structure which is:  
Subordinate to and serves a principal building or principal use; and  
Subordinate in extent, area or purpose to the primary building or  
use served; Located on the same lot as the principal building or use  
served.
- Alley:** Any roadway or public way dedicated to public use and twenty  
(20) feet or less in width.
- Building Inspector:** The person or persons appointed by the Town Council to  
full or part-time positions, having duties including the inspection  
of existing, proposed and/or ongoing construction projects to insure  
compliance with the Town's Ordinances.
- Building Setback Line:** A line showing the nearest distance to the street  
line or property line that is permissible to build a structure to be  
in compliance with this zoning law.
- Court:** An unoccupied space on the same lot with a building and bounded on  
at least three (3) adjacent sides by walls of the building, but open  
and unobstructed from its lowest level to the sky.
- Outer Court:** A court extending to street or alley, or to a front or rear  
yard.
- Inner Court:** A court not extending to a street or alley, or to a front or  
rear yard.
- Width of Court:** The least horizontal dimension of a court at its  
lowest level.
- Curb Level:** The elevation of the top of the curb or the established curb  
grade opposite the center of the building or portion thereof under  
consideration. Where no curb level has been established, the  
elevation of the ground at the center of the traveled portion of the  
street in front thereof shall be considered the equivalent of the  
curb level.
- One-Family Dwelling:** A separate, detached building designed for, or  
occupied exclusively as, a residence by one family.
- Two-Family Dwelling:** A separate, detached building designed for, or  
occupied exclusively as, a residence by two (2) families.
- Multiple Dwelling:** A dwelling designed for or occupied otherwise than as a  
one-family dwelling or a two-family dwelling. The term "multiple  
dwelling" shall be understood to include apartment houses, row  
houses, tenement houses, and all other family dwellings of similar  
character, where apartments or suites are occupied and used as  
separate complete housekeeping units, but not to include hotels.
- Effective Date:** The date of passage of this Ordinance.
- Family:** An individual or two (2) or more persons related by blood,  
marriage, or adoption, who are living together as a single  
housekeeping unit; or no more than three (3) unrelated adults living  
together as a single housekeeping unit, and the children of each;  
and nurses, sitters, or similar medical providers who are paid  
compensation by or on behalf of some person living in the residence.  
For the purpose of this definition, a single housekeeping unit will

not include two (2) or more separate living areas with separate entrances and separate kitchen and bathroom facilities, even though such living areas are accessible to one another inside of the residence by a door, hallway or steps. (Enacted 6/3/1998)

**Floor Area Ratio:** The mathematical ratio between: a lot, and The sum of gross floor areas on all floors of all buildings on the area of the lot on which the building(s) is situated.

**Garage:** A building, structure or any portion thereof used for housing or repairing motor vehicles. This does not include rooms for storing, exhibiting or showing cars for sale.

**Private Garage:** A garage for housing only, with the capacity for not more than two (2) motor vehicles. A garage having a capacity of from two (2) to six (6) motor vehicles, intended primarily for housing of cars belonging to occupants of the premises, shall be considered a private garage if the lots whereon such garage and the dwelling to which it is accessory is located contains not less than sixteen hundred (1600) square feet for each vehicle capacity.

**Joint Garage:** A building on its own lots which serves two (2) or more residences on separate lots and is used jointly for the storage of not more than six (6) private automobiles belonging to the owners or tenants of the said residences.

**Public Garage:** A garage not included within the definition of a private garage or a joint garage.

**Ground Coverage Ratio:** The percent of lot area covered by all buildings on the lot.

**Home Occupation:** An occupation conducted in a dwelling unit provided that: No person other than the members of the family residing on premises shall be engaged in such occupation.

The use of the dwelling unit for the home occupation shall be clearly incidental and subordinate to its use for residential purposes for its occupants, and not more than twenty-five percent (25%) of the floor area of the dwelling unit shall be used in the conduct of the home occupation.

There shall be no change in the outside appearance of the building or premises, or other visible evidence of the conduct of such home occupation, other than one sign, not exceeding three (3) square feet in area, non-illuminated, and mounted flat against the wall of the principal building.

No home occupation shall be conducted in any accessory building.

No traffic shall be generated by such home occupation in greater volumes or with greater frequency than would normally be expected in a residential neighborhood, and any need for parking generated by the conduct of such home occupation shall be met off the street and other than in front yard of the residence.

No equipment or process shall be used in such home occupation which creates noise, vibration, glare, fumes, or odors detectable to the normal senses off the lot, if the occupation is conducted in a single-family residence, or outside the dwelling unit, if conducted in other than a single-family residence, and no equipment or process shall be used in any dwelling which creates electrical interference affecting radio or television receivers off the premises or causes fluctuations in line voltage off the premises.

**Half Story:** A story under a gable, hipped or gambrel roof the wall plates of which, on at least two (2) opposite exterior walls, are not more than two (2) feet above the finished floor of such story.

**Junk:** Junk shall include scrap iron, scrap tin, scrap brass, scrap copper, scrap lead, or scrap zinc, and all other metals and their alloys; and bones, rags, used clothes, used rubber, used rope, used tinfoil, used bottles, used furniture, old or used machinery, used utensils, used lumber, used tires, used boxes or crates, used tools, used appliances, used fixtures, used pipe or pipe fittings, furniture, and other manufactured goods that are so worn, deteriorated or obsolete as to make them unusable in their existing condition but appropriate for dismantling.

**Junk Yard:** Junk Yards shall consist of buildings, structures, or premises where junk, waste, discarded or salvage materials are brought, sold exchanged, stored, baled, packed, disassembled or handled, including automobile wrecking and structural steel materials and equipment yards, but not including the purchase or storage of used furniture and household equipment or used cars in operable condition.

**Lot:** A parcel of land which is or may be occupied by one main building or used and its accessories, including the open spaces required under this zoning law.

**Depth of Lot:** The mean horizontal distance between the front lot line and the rear lot line.

**Corner Lot:** A lot abutting upon two (2) or more streets at their intersection.

**Interior Lot:** A Lot, the side.02 lines of which do not abut on a street.

**Through Lot:** An interior lot having frontage on two (2) streets.

**Mixed Occupancy:** Occupancy of a building or land for more than one use.

**Modular Unit:** A unit designed so as to allow assembly at a plant or factory and transportation to a permanent site. Said design shall not incorporate a structure system capable of continual mobility. All modular units shall be designed so as to present a pleasant aesthetic appearance capable of blending with structures in the area. All modular units shall meet all city codes including, but not limited to structure, plumbing, electrical, etc. A mobile home is any structure with one or more of the following attributes: Having a vehicle identification number (VIN), being taxed as personal property, or being constructed on a non-removable steel frame.



**Mobile Home:** Any structure with one or more of the following attributes:  
Having a vehicle identification number (VIN). Which is taxed as personal property. Which is considered on a non-removable steel frame.

**Nonconforming use:** A use of a building or land which does not conform with the zoning regulations of the use district in which it is situated.

**Particulate Matter:** Material other than water which is suspended in, or discharged into, the atmosphere in a finely developed form, as a liquid or a solid.

**Party Wall:** A wall between adjoining structures owned in common or in severalty by one owner alone and providing right of support for the respective adjacent building or structures.

**Person:** Any natural person, firm, corporation, or other legal entity located within the Town limits or otherwise subject to the legal jurisdiction of the Town of Athens.

**Porch:** A roofed or unroofed open structure projecting from the front, side or rear wall of a building, and having no enclosing feature of glass, wood, or other material more than thirty (30) inches above the floor thereof, except the necessary columns to support the roof. A porch shall not extend beyond the building setback line.

**Rental Unit:** A subdivision or portion of a single family, two-family, or multi-family dwelling which is separated from the remainder of the dwelling by physical means such as partitions or a section of the dwelling from which individual revenues or rents are derived.

**Sign:** Any structure or part thereof on which lettered or pictorial matter is displayed for advertising or notice purposes.

**Special Exception:** A use that would not be appropriate generally or without restriction throughout a zoning district, but which, if controlled as to number, area, location or relation to the neighborhood, would promote the public health, safety, order, comfort, convenience, appearance, prosperity or general welfare. The Board of Zoning Appeals may permit such uses in a zoning district as special exceptions if specific provision for such special exception is made in this Chapter.

**Stable.** A building, structure or portion thereof which is used for the shelter or care of horses, cattle, or other similar animals, either permanently or transiently.

**Private Stable:** A stable with space for not more than four (4) animals.

**Public Stable:** A stable with space for more than four(4) animals.

**Story:** That portion of a building included between the surface of any floor and the surface of the next floor above it, or if there is no floor above it, then the space between such floor and the ceiling next above it.

**Street:** Any roadway or public way dedicated to public use which is more than twenty (20) feet in width.

**Street Line:** The line between a street and a lot.

**Structural Alterations:** Any change in, replacement of, supporting members of a building or structure, such as bearing walls, columns, beams or girders.

**Structure:** Anything constructed or erected, the use of which demands a more or less permanent location on the land, or anything attached to something having a permanent location on the land. This will exclude any steps, stairs, ramps, patios, driveways, or other non-elevated adjuncts to the building. (Adopted 10/7/2003)

**Yard:** An open, unoccupied space, other than a court, on the same lot with a building, unobstructed from the ground to the sky, except as otherwise provided herein.

**Front Yard:** The yard existing across the entire width of the lot between the main building (the main building includes an attached garage, carport or covered porch) and the front lot line or an official future street right-of-way line.

**Rear Yard:** A yard across the full width of the lot, extending from the rear lot line of the building to the rear line of the lot.

**Side Yard:** A yard between the side line of the building and the adjacent sideline of the lot, extending from the front yard to the rear yard. If there is no front yard, the side yard shall be considered as extending from the front line of the lot, and if there is no rear yard, the side yard shall be considered as extending to the rear line of the lot.

**Zone Map:** The map identified by the title: Town of Athens, West Virginia, Zone Map, available for reference in the municipal building, which map, as amended from time to time, is incorporated herein and included as a part of this Chapter as though it were set forth and described in its entirety in this definition.

**Zoning Law:** This Chapter and Zone Map adopted on the effective date.  
Adopted 7/1/2003

## 605.00 District Classifications

Article 605.01 Classes of Districts

605.02 District Boundaries as Shown on Map

605.03 Application of District Regulations

605.04 Statements of Intent

605.05 Permitted Uses

605.06 Special Exceptions Article 605.07 Lot Standards

605.08 Nonconforming uses - Continuation of Existing Use of Land

605.09 Nonconforming uses - Continuation and Extension of Existing Use Building

605.10 Nonconforming uses - Changing Use of Building

605.11 Nonconforming uses - Changing to Less Restricted Use

605.12 Nonconforming uses - Re-establishing

605.13 Areas Annexed to the Town

## 605.01 Classes of Districts

For the purpose of this zoning law, the Town of Athens is hereby divided into four (4) classes of districts, which shall be designated as follows:

1. R-1 Single Family Residence District
2. R-2 Single Family Residence District
3. R-3 Multi-Family Residence District
4. BD Business District

Adopted 7/1/2003

## 605.02 District Boundaries as Shown on Map

The location and boundaries of districts are and shall be shown on the zone map, which is hereby declared to be a part hereof.

Where the designation on the zone map indicates a district boundary approximately on a street or alley line or a lot line, such street or alley or such lot line shall be construed to be the boundary line. Adopted 7/1/2003

## 605.03 Application of District Regulations

Hereafter, no building or structure shall be erected, constructed, reconstructed, altered, or converted, and no building, structure or land shall be used, except in conformity with the regulations herein established for the district in which such land, building or structure is located.

In cases of mixed occupancy, the regulation for each use shall apply to the portion of the building or land so used. Adopted 7/1/2003

## 605.04 Statements of Intent

The following statements of intent are provided in order to clarify the purposes for which the several residential districts are created. In each district, uses and structures which support and harmonize the kinds of development described below are also implied:

**R-1 Residence District:** This district is created to provide minimum standards for the development and use of single-family detached housing built on separate lots and fully meeting modern standards with respect to light, air, open space, and off-street parking.

**R-2 Residential District:** This district is created to provide minimum standards for the development and use of single-family detached housing including mobile homes which meet modern standards with respect to light, air, open space, and off-street parking.

**R-3 Multi-Family Residence District:** This district is created to provide minimum standards for the housing described in (A) of this section

and of development and use of apartments meeting modern standards with respect to light, air, off-street parking, and usable open space. Article 605.05 Permitted Uses.

In residential districts, land and structures may be used, and structures may be erected, altered, or enlarged only for the uses listed in the table below, except as allowed in other sections:

	RESIDENTIAL DISTRICT PERMITTED USE	1 R-	2 R-	3 R-
1	Farm, truck, garden, or	X	X	X
2	Single-family dwelling	X	X	X
3	Two-family dwelling			X
4	Town houses			X
5	Apartment or multi- <del>family dwelling</del>			X
6	Park, playground of athletic field not operated As a business for profit	X	X	X
7	Nursing home, personal care Pubuic buildings of Government nature: i.e., Public schools, churches	X	X	X
8	Accessory uses, incident to any of the principal Uses above listed	X	X	X
9	Mobile Homes			X

Adopted 7/1/2003

## 605.06 Special Exceptions

The Board of Zoning Appeals may authorize any of the uses listed in the following table:

RESIDENTIAL DISTRICTS SPECIAL EXCEPTION USES	1 R-	2 R-	3 R-
Private/parochial school	X	X	X
Joint garage	X	X	X
Private, non-profit outdoor recreation club	X	X	X
Electric substation or similar utility	X	X	X
Club or lodge provided non carried on as business			X
Human hospital	X	X	X
Nursing home, personal care home	X	X	X
Medical/dental clinic, attorney, accountant, professional physician or dental office	X	X	X
Home occupation	X	X	X
Rooming or boarding house in which the owner resides and has been converted from an existing dwelling	X	X	X
Day care center		X	X
Other public buildings of educational, cultural, social, recreational character			X

No use prohibited in the business district shall be permitted in any residential district. Adopted 7/1/2003

### 605.07 Lot Standards

**Area:** for every building hereafter erected or used in whole or part as a dwelling in a residential district, the following minimum lot area per dwelling shall be provided:

AREA STANDARDS      LOT AREA IN SQUARE FEET

<b>RESIDENTIAL DISTRICT</b>	R-1	R-2	R-3
Per dwelling unit in single-family dwelling	10,000	7,500	7,500
Per dwelling unit in two-family dwelling		5,000	
Per dwelling unit in town houses		4,000	
Per dwelling unit in multi-family dwelling		4,000	

### **605.08 Continuation of Existing Use of Land**

The lawful use of land existing on the effective date of this zoning law, or of an amendment thereto, although such use does not conform to the provisions hereof, may be continued, but if such nonconforming use is discontinued, any future use of the land shall be in conformity with the provisions of this zoning law. Adopted 7/1/2003

### **605.09 Continuation and Extension of Existing Use of Building**

The lawful use of a business or structure existing on the effective date of this zoning law or of an amendment thereto, although such use does not conform to the provisions hereof, may be continued and such use may be extended throughout the building; provided no structural alterations are made, other than those ordered by an authorized public officer to assure the safety of the building or structure; and provided further that such extension within the building does not displace a conforming use in the building, in a district established by this zoning law, with the following exception:

The building located on Lot 406 on Vermillion Street known as the Sweet Shop may continue its present form. However, any major renovations must be approved by the Board of Zoning Appeals to assure that any proposed changes are in keeping with its tradition. Adopted 7/1/2003

### **605.10 Changing Use of Building**

A nonconforming use of a building may be changed to another nonconforming use of a more restrict classification with the approval of the Board of Zoning Appeals according to the provisions of this zoning law; provided no structural alterations are made, other than those ordered by n authorized public officer to assure the safety of the building or structure. Adopted 7/1/2003

### **605.11 Changing to a Less Restrictive Use Prohibited**

Whenever a nonconforming use of a building has been changed to a more restrictive use or to a conforming use, according to the provisions of this zoning law; such use shall not thereafter be changed to a less restricted use. Adopted 7/1/2003

## 605.12 Areas Annexed to the Town

Any areas annexed to the Town of Athens, after the adoption of this zoning law shall be classified as R-1, except that developed areas shall, at the option of the Town Council, upon recommendation of the Planning Commission, be placed in the zoning district which best fits the existing use of the developed area. Adopted 7/1/2003

## 607.00 Administration and Enforcement

- 607.01 Enforcement
- 607.02 Building Permit
- 607.03 Completion of Buildings
- 607.04 Penalty for Chapter Violation(s)
- 607.05 Amendments, Supplements of Changes to Zoning Ordinances
- 607.06 Amendments - Initiation Procedure
- 607.07 Amendments - Passage
- 607.08 Board of Zoning Appeals - Creation, Membership
- 607.09 Same - Powers in Granting Variances
- 607.10 Same - Appeals

### 607.01 Enforcement

The duty of administering and enforcing the provisions of this zoning law is conferred upon the Mayor. Adopted 7/1/2003

### 607.02 Building Permit

A building permit shall be required for any construction expanding the footprint or creating a new footprint for any structure in the Town of Athens. A survey prepared by a professional surveyor licensed in the State of West Virginia shall be required for any such construction. Footprint shall include the area covered by any living or storage space and or any auxiliary building constructed on a permanent foundation. Structures such as decks and patios are not considered permanent. All applications for building permits shall be accompanied by a plat, drawn to scale, showing the actual dimensions of each lot to be build upon, the size and location of each structure to be erected, constructed, or structurally altered upon each lot, and such other information as may be necessary to determine that the proposed structure and use of land will conform to the provisions of this zoning law. This provision shall not be construed to repeal or dispense with the requirements for applications for building permits contained elsewhere in this code. A record of such applications and plats shall be kept in the office of the Town Clerk and the Town reserves the right upon completion or the erection, construction or alteration to enter and/or inspect the premises to insure compliance with the building permit.

No permit is required for repair or replacement in kind of part of an already existing structure. Adopted 8/19/2009



### **607.03 Completion of Buildings**

Any structure, the construction of which was begun and diligently prosecuted on the effective date of this zoning law, but which may not conform with the regulations contained herein for the district in which it is located, may be completed and used in accordance with the plans or building permit issues for such structure, provided it is completed within one year from the effective date of this zoning law.

All permits for buildings within sixty (60) days prior to such passage are hereby declared void if such building or its use does not conform to the provisions of this zoning law, and if on the effective date of this law any substantial construction has been made and no contract has been let pursuant to such permit.

If, after the issuance of a permit, the operations authorized there under are not commenced within six (6) months after the date of the permit, or if after the commencement of operations the work is discontinued for a period of twelve (12) months, such permit shall be void; work may not again be commenced until a new permit shall have been issues as for the original work; and, building materials an equipment on the ground shall be moved or stored according to the requirements of the Mayor. Adopted 7/1/20

### **607.04 Penalty for Chapter Violation**

Any person violating any provision of this zoning law shall be guilty of a misdemeanor and upon conviction thereof, shall be fined not less than Ten Dollars (\$10.00) nor more than Three Hundred Dollars (\$300.00). Each day during which a violation is permitted to exist shall constitute a separate offense. Adopted 7/1/2003

### **607.05 Amendments, Supplements of Changes to Zoning Ordinances**

Any proposed amendment, supplement or change of the regulations, restrictions or district boundaries established by the zoning laws shall first be submitted to the Planning Commission for its recommendations and report. When a petition to re-zone is presented to the Planning Commission it shall be accompanied by schematic plans showing the type of development to take place and by a certificate guaranteeing that the development will take place in accordance with the plans within twelve (12) months after the zoning change is approved. The approval of such zoning change by the Planning Commission and the adoption of such zoning change by the Town Council will be tentatively based upon development being in accordance with the plans. If the actual development varies from the plan, it shall be deemed a violation of this chapter and appropriate action shall be taken by the Mayor. Should development not begin within one (1) year, the re- zoning shall be null and void and the original zoning classification shall apply.

Before submitting its recommendation and report to the Town Council, the Planning Commission shall hold a public hearing on the proposed amendment, supplement or change. It shall give at least fifteen (15) days notice of the time and place of such hearing by publication in an official

newspaper or a newspaper of general circulation in the Town, or by direct mailing to residents Adopted 7/1/2003

#### **607.06 Amendments - Initiation Procedure**

Amendments, changes, modifications or repeal of Zoning Ordinances may be initiated by: (1) The Town Council or (2) by a petition signed by 50% of the property owners of the area effected by the proposed changesThe petition shall be voted on only after:

1. The Council has received and considered a report of the Planning Commission.
2. A Public Hearing, announced as in Article 607.05 Section B by the Planning Commission, has been held. Adopted 7/1/2003

#### **607.07 Amendments – Passage**

The final Amendment shall be presented to the Town Council where it must receive a favorable vote of five/sevenths (5/7), rather than a simple majority of all of the members, for final enactment.

In case of a protest against the Amendment, a petition by twenty percent (20%) or more of the property owners and the property owners directly adjacent to the area to be changed may be submitted to the Town Council. The changes proposed by the petition must receive a favorable vote of five/sevenths (5/7) of all members of the Town Council. Adopted 7/1/2003

#### **607.08 Board of Zoning Appeals - Creation; Membership**

A Board of Zoning Appeals is hereby established. The word "BOARD" when used in this zoning law shall be construed to mean the Board of Zoning Appeals.

The Board shall consist of five (5) members who are freeholders and the residents of the Town of Athens, to be appointed by the Town Council. At least three (3) of the members of the Board must have been residents of the Town of Athens for at least ten (10) years preceding the time of their appointment and the non-member of the Board shall be a member of the Planning Commission or of the Town Council of the Town of Athens.

At the time of the initial appointment of the Board, one (1) member shall be appointed for a term of one (1) year; two (2) members for a term of two (2) years; and two (2) members for a term of three (3) years. The terms of the members shall expire on the first day of January of the first, second, and third years, respectively, following their appointment. Thereafter, as their terms expired, each new appointment shall be for a term of three (3) years. If a vacancy occurs by resignation or otherwise, among the members of the Board, the Town Council shall appoint a member for the unexpired term. Adopted 7/1/2003

## 607.09 Same - Meetings

The Board shall meet at least one (1) time each year to elect a chairman and vice-chairman and to conduct such other and further business as may be necessary. Additional meetings of the Board shall be held at the call of the Chairman and at such other times as the Board may determine, and such meetings shall be open to the Public. The Board shall adopt its own rules of procedure and shall keep minutes of its proceedings showing the vote of each member upon each question, or if absent or failing to vote, indicating such fact, and shall keep records of its examinations and other official actions. Every rule or regulation, every amendment or real thereof, and every order, requirement, decision or determination of the Board shall immediately be filed in the Town Hall and shall be public record. Adopted 7/1/2003

## 607.10 Same - Powers in Granting Variances

The Board shall have all of the powers and duties set forth in Chapter 8, Article 24, Section 55 of the West Virginia Code, as amend.

§ 8-24-55 Powers, authority and duties.

The board of zoning appeals shall:

Hear and determine appeals from and review any order, requirement, decision or determination made by an administrative official or board charged with the enforcement of any ordinance or rule and regulation adopted pursuant to sections thirty-nine through forty- nine [§§ 8-24-39 to 8-24-49] of this article;

Permit and authorize exceptions to the district rules and regulations only in the classes of cases or in particular situations, as specified in the ordinance;

Hear and decide special exceptions to the terms of the ordinance upon which the board is required to act under the ordinance; and

Authorize upon appeal in specific cases such variance from the terms of the ordinance as will not be contrary to the public interest, where, owing to special conditions, a literal enforcement of the provisions of the ordinance will result in unnecessary hardship, and so that the spirit of the ordinance shall be observed and substantial justice done.

In exercising its powers and authority, the board of zoning appeals may reverse or affirm, in whole or in part, or may modify the order, requirement, decision or determination appealed from, as in its opinion ought to be done in the premises, and to this end shall have all the powers and authority of the official or board from whom or which the appeal is taken.

Where the street layout actually on the ground, or as recorded, my differ from the street layout as shown on the zoning map, the Board shall interpret the map in such a way as to carry out the intent and purpose of this zoning law and the map for the section or district in question.

Where, by reason of topographical conditions or district border line situations immediately adjoining existing developments, or because of other unusual circumstances, the strict application of any provision of this zoning law would result in exceptional practical difficulty or undue hardships upon the owner of any specific property, the Board, in passing upon appeals, shall have the power to vary or modify such strict application or to interpret the meaning of this zoning law so as to relieve such difficulty or hardship; provided that such variance, modification or interpretation shall remain in harmony with the general purpose and intent of this zoning law so that the health, safety, and general welfare of the community shall be conserved and substantial justice done.

In granting variances, the Board may, if it deems proper to the carrying out of the intent and purpose of this zoning law, impose such reasonable and additional stipulations and conditions as will, in the judgment of the Board, better fulfill the purpose of this zoning law.  
Adopted 7/1/2003

#### 607.11 Same - Appeals

Appeals to the Board may be taken by any person aggrieved, or by any officer, department, Board or Bureau of the Town, affected by any decision made in the administration of this zoning law. Such appeal shall be taken within a reasonable time, as provided by the rules of the Board, by filing with the Recorder and with the Board a notice of appeal specifying the ground thereof, and upon payment to the Recorder of Five Dollars (\$5.00) appeal costs. The Recorder shall forthwith transmit to the Board all papers constituting the record upon which the action appealed from was taken.

The Board shall fix a reasonable time for the hearing of an appeal, shall give public notice thereof as Class I Legal Advertisement at least thirty (30) days prior to the date set for the hearing; as well as due notice, at least six (6) days prior to the hearing, by mail, to the parties in interest at the address filed with the appeal, and shall decide the same within a reasonable time. Upon the hearing of such appeal any party may appear in person or by agent or by attorney.

The party taking an appeal before the Board will be required to assume the costs of public notice and notice to interested parties in addition to the required Five Dollar (\$5.00) fee for appeal costs.

In the case of any permit authorized by the Board, if such permit is not lifted from the office of the Recorder within a period of six (6) months from the date of authorization, then such authorization shall be null and void and no permit shall be issued there under. Adopted 7/1/2003

## 609.00 Residential District Regulations

609.01 Lands, Usable Open Space, and Parking  
609.02 Height Regulations  
609.03 Accessories Used in Residential Areas  
609.04 Condominium Projects  
609.05 Multiple Dwellings  
605.07 District Exceptions

Cross References: Articles 605.04, 605.05, 605.06, West Virginia Code for Residential Types, Permitted Uses, Special And Lot Standards

### 609.01 Lands, Usable Open Space and Parking

**Front Yard:** For every lot in a residential district abutting on a street, front yards of the following minimum depth shall be provided:

R1	20 feet
R2	20 feet
R3	20 feet

**Side Yard:** For every building in a residential district side yards of the following minimum width shall be provided:

	R1	R2	R3
Single-Family Dwelling	10 feet	10 feet	10 feet
Two-Family Dwelling		10 feet	
Town House Dwelling			10 feet
Apartment Dwelling			10 feet

**Rear Yard:** For every principal building in a residence district, rear yards of the following minimum depths shall be provided:

R1	20 feet
R2	20 feet
R3	20 feet

**Parking Requirements:** Single-Family, Two-Family, Town Houses, and Apartment buildings shall provide a minimum of two (2) off-street parking spaces per dwelling unit.

## Front Yard and Setback Lines

- (1) In any residence district, where forty (40) percent or more of the properties fronting upon one side of a street between two (2) intersection streets, and located in such district, has been improved with buildings at the time of the passage of this zoning ordinance, and a front yard of less depth than the minimum, required by the schedules of are regulations the majority of such buildings, such minimum shall not control; however, no building or structure hereafter erected or altered in such residence district shall be placed nearer to the street line than the average depth of front yard established by such majority, except that the minimum depth of front yard of a dwelling on a lot between two adjoining lots, on each of which a building exists at the time of the passage of this zoning law, shall be at least the average of the depth of front yards observed by such buildings. Where less than forty (40) percent of such property has been improved with buildings, or where dwellings do not front upon a street, the minimum depth of the front yard shall be as required by the schedules of area regulations.
- (2) For a corner lot in a residential district, the minimum depth of yard along either frontage shall be the depth of yard which is required along the same street for the next adjacent lot unless separated there from by an intersecting street; provided, nothing in this requirement shall be so interpreted as to reduce the buildable width of corner lot of record at the time of the passage of this zoning law to less than two-thirds (2/3) of the total width of the lot or to less than twenty-six (26) feet in a residence district Adopted 7/1/2003

## 609.02 Height Regulations

Maximum Building Height: The height of building structure hereafter erected or altered shall not exceed the heights specified in the table below.

Type	Number of Stories	Feet
Single-Family	2-1/2*	35
Two-	3	45
Town	3	45
Apartme	3	45

\*In R-2 and R-2, the height of the dwelling may be increased to forty-five (45) feet, but not to exceed three (3) stories, provided that the width of each side yard required is increased by a distance equal to the additional height of the building above thirty-five (35) foot limitations.

In any residence district, the height limitation for public or semi-public buildings, such as churches, hospitals, sanatoriums or schools, maybe increased by eighty (80) feet, but not to exceed six (6) stores, if the open spaces on the lot as required by Article 608.01, are increased so that no point in any wall of the building shall be nearer to the vertical plane through a lot line than a distance equal to three-fourths (3/4) the height of such point above the curb level.

In any district, chimneys, stacks, elevator bulkheads, penthouses, gas or water towers, stage towers, or scenery lifts, electric signs, wireless towers and other necessary mechanical appurtenances, were permitted by the use regulations of this zoning law and erected upon and as an integral part of the building, may be erected or extended above the height limit of the district; provided that any structure shall set back from the vertical plane of the permitted building one foot horizontally for each two (2) feet of extra height:

The height of a building shall be the vertical distance measured from the curb level to the highest point of the coping for flat roofs, to the deck line of mansard roofs, and to the mean height between eaves and ridge for gabled, hipped or gambrel roofs.

Where a building is set back from a street line, or is not located adjacent to a street, the height may be measured from the average elevation of the ground (finished grade) along the front of the building instead of from the curb level; provided, in the first instance, that the distance from the street line to the front line of the building is not less than the height of such finished grade above the curb level.

On a corner lot having two (2) or more frontages, the height of a building may be measured from the highest curb level.

On a through lot, one hundred and fifty (150) feet or less in depth, the height of a building may be measured from the curb level on either street. On a through lot more than one hundred and fifty (150) feet in depth, the height limit, including all exception thereof, as measured from the curb level permitting the greater height, shall apply to a depth of not more than one hundred and fifty (150) feet. Adopted 7/1/2003

## 609.03 Accessories Used in Residential Areas

### Fences or Enclosure Walls

- (1) A hedge which is located along a street line shall be kept trimmed so that no portion shall protrude over the sidewalk. Where there is no sidewalk, any such hedge shall be kept trimmed so that no portion of it protrudes past the boundary line of the residential plot upon which the hedge is located.
- (2) No fence or enclosure wall shall be constructed or hedge allowed to grow so that a traffic hazard is created by obstruction of the view of any vehicle arriving on, entering or leaving any public street.
- (3) No barbed wire or other hazardous material may be used in the construction of any fence. No electric fences may be constructed.

### Accessory Structures

- (1) An accessory structure shall not be more than twenty (20) feet high, nor occupy more than twenty (20) percent of the rear yard.
- (2) No accessory structure shall be allowed in a front yard except as a variance by the Board of Zoning Appeals.
- (3) No accessory structure shall be located less than five (5) feet from an adjoining side yard, nor less than ten (10) feet from any street line or alley.

Earth station antennae, satellite dish antennae or other ground-mounted antennae shall be considered as accessory structures in residential districts, shall be concealed by fencing or landscaping, and shall conform to all the requirements of such accessory structures. As a further requirement, such antennae shall be located only within the rear yard of any dwelling as defined in Article 608.01. Antennae not larger than twenty-four inches in diameter are permitted to be structure mounted. Concealment is not required for these smaller antennae. Adopted 7/1/2003

## 609.04 Condominium Projects

Pursuant to the authority contained in Chapter 36B of the West Virginia Code of the effective date hereof as the Uniform Common Interest Ownership Act, the subdivision of tracts, buildings, common interests therein, their declaration as provided by law to be condominium projects, and their subsequent retention or sale as condominium units, shall be allowed upon application to the Planning Commission as a petition for rezoning as set out in Articles 605.04, 605.05, and 605.06, as applicable, and pursuant to this section.



The definitions contained in Article 603.01 of this Chapter shall be supplemented for the purposes of this section by incorporation by reference to the definitions contained in Section 36B-1-103 of the West Virginia Code.

A person or persons desiring to declare, subdivide, and resell or retain individual interests in land and buildings and common interests in land and buildings as condominium units, shall apply to the Planning Commission for permission to do so. Such application shall contain such information as may be prescribed by the Town, but shall contain a minimum duplicate original copy of the contents of the declaration required by Section 36B-2-105 of the West Virginia Code, including the plats and plans required by Section

36B-2-109. Where such declaration has been recorded, the copies so provided shall be copies certified by the Clerk of the County Commission of Mercer County, except that plat or maps may be furnished as duplicate originals, provided that they bear the signature and seal of the preparing engineer. Where such declaration has not yet been recorded, such certified copies shall be furnished prior to final approval of the Planning Commission.

Flexible condominiums as described in Section 36B-2-106 of the West Virginia Code shall not be permitted upon original application. Any request for an extension of, addition to or other expansion of a condominium project approved under this and other applicable sections shall be by new application.

Condominiums shall be subject to all the rules and regulations prescribed by the building codes of the Town and by this Code of Ordinances. For the purposes of regulating area, yard size, density, and parking, and for the purpose of other regulations, condominium projects shall be construed as multi-family dwellings and shall be subject to further requirements than those imposed upon such dwellings, provided that each unit in a declared and approved condominium project shall be considered as an individual dwelling unit for the purpose of Town service fees. Adopted 7/1/2003

### **609.05 Multiple Dwellings**

Interpretation: This section sets forth minimum standards for multiple dwellings to ensure that all new construction, conversion or renovation of existing structure shall meet the objectives of Article 605.04 (C) of the Code. Where requirements are found elsewhere in this Code which conflict with those of this section, the more restrictive requirement shall apply.

Each rental unit must have a designated maximum number of occupants. In the case of new construction or renovations which change either the number of rental units within a dwelling or the floor plan of a dwelling, this number is to be set forth in the application for a building permit or such construction must comply with all sections of the Code. In the case of existing residences, the owner of every multiple dwelling within the limits of the Town of Athens shall submit a list of each rental unit owner, along with the maximum occupancy rate for each unit. Occupancy levels must be in compliance with Article 609.05 (C) of this Ordinance. It shall be considered a violation of this Ordinance for any owner to allow more than the maximum number of occupants to live in any rental unit as determined by the area of the unit.

In no case shall the total living space of any rental unit be less than that outlined below:

Occupants	Square Feet of Space
1	500
2	800
3	1100
4	1300
5	1500

For each additional occupant over five (5), 175 square feet of space shall be required.

In addition to the parking requirements set forth elsewhere in the Code, there shall be a minimum of outside landscaped space per occupant as outlined in the table below:

Occupants	Square Feet of Outside Space
1	100
2	200
3	250

For each additional occupant over three (3), 25 square feet of additional space shall be required.

Adopted 7/1/2003

## 611.00 Business District Regulations

- 611.01 Statement of Intent
- 611.02 Permitted Use
- 611.03 Prohibited Uses
- 611.04 Floor Area Ratio
- 611.05 Yards and Green Space
- 611.06 Parking Requirements
- 611.07 Performance Standards
- 611.08 Noise Limitations

### 611.01 Statement of Intent

In order to preserve the aesthetic quality of the Town and the peace and tranquility for which it is noted, no heavy industries shall be permitted within the Town's boundaries. It is the intention of this Ordinance to restrict the business districts of the Town to the essential supporting services of a primarily residential community or to those business activities not in conflict with residential living. Adopted 7/1/2003

### 611.02 Permitted Uses

- (1) Retail store selling dry goods Grocery, confectionery or bakeshop
- (2) Restaurants except drive-in restaurants offering curb service Motel, Hotel
- (3) Indoor theater, bowling alley or other recreational facility enclosed within a building
- (4) Personal Service shop including tailor, barber, beauty, shoe repair shops and the like
- (5) Laundry or dry cleaners
- (6) Automobile service station, repair shop or car wash Professional offices of lawyer, architect or engineer Medical or dental clinic, office or laboratory
- (7) Financial institutions, real estate and insurance agencies Schools
- (8) Appliance, watch or camera repair store and the like Club or lodge organized for fraternal or social purposes
- (9) Any establishment permitted in a residential district such as apartments, except that all regulations and restrictions applicable to residential areas shall also apply when the establishment is located in a business district
- (10) Manufacturing of products that are sold at retail on the premises to the ultimate consumer
- (11) Adopted 7/1/2003

### 611.03 Prohibited Uses

Junk Yard Stable, veterinary clinic or other business activity where animals are housed in pens or other open area rather than in completely enclosed permanent structures

Coal, lumber, or junk storage or processing where materials are stored outside permanent structures Contractor's plant and storage of equipment, vehicles ordinarily used in construction, demolition, etc., except during the course of construction

Drive-in theater Bar, tavern, nightclub, or dance hall  
Construction, farm or other heavy equipment sales agency

#### Special Exception Uses

Provided that the use does not conflict with the intents and goals of the overall comprehensive plan, the Board of Zoning Appeals may authorize the following as special exception:

Manufacturing of products sold off premises.

Adopted 7/1/2003

### 611.04 Floor Area Ratio

In the business district, the maximum floor area ratio shall not exceed 0.80 per floor. Adopted 7/1/2003

### 611.05 Yards and Green Space

In the business district, buildings must be set back from the street a minimum of ten (10) feet. At least (10) percent of the lot must be landscaped, and this portion of the lot must be visible from the street.  
Adopted 7/1/2003

### 611.06 Parking Requirements

The minimum number of off-street parking spaces to be provided for new, substantially reconstructed buildings, or building converted to a new use, shall be one for each employee, manager or other person regularly on the premises for the purpose of conducting business, plus spaces for customers in accordance with the table below:

Each parking space shall be nine (9) feet minimum in width and containing a minimum of 150 square feet of area.

Established Type RETAIL STORE or personal service establishment	Parking Requirement 120 sq ft of building floor area
FURNITURE and major appliance store, motor vehicle customer service	One per two hundred forty (240) feet of sales area or sales area
MOTEL, boarding house or other similar establishment	One and one quarter (1.25) for each full room plus one per one hundred square feet of customer area in restaurant or meeting area.
MEDICAL or dental clinic doctor or dentist's office	One per twenty-five (25) square feet of waiting room area
BANK, business or professional office	One per two hundred fifty (250) square

Adopted 7/1/2003

## 611.07 Performance Standards

### Compliance with Standards

Any use established or changed to, and any building, structure or tract of land developed, constructed or used for any permitted principal or accessory use shall comply with all the performance standards set forth in Subsections (B) below.

### Performance Standards

- (1) Outside Storage: There shall be no storage of loose bulk material such as sand, gravel, sawdust, or coal outside an enclosed building unless kept in a suitable covered contained, crib or tank.
- (2) Maintenance of Grounds: All portions of a tract not covered by buildings, parking space(s) and permitted outside storage shall be covered by grass or other suitable ground cover and be kept free of refuse.
- (3) Noise: The Town reserves the right at any time to measure noise with a sound level meter meeting the standards of the American National Standards Institute (ANSI S1. 4-1961) "American Standard Specifications for General Purpose Sound Level Meters." The instrument shall be set to an A- weighted response scale and the meter to slow response. Measurements shall be conducted in accordance with ANSI S1.2-1962 "American Standard Method for the Physical Measurement of Sound."

The table below specifies the noise limits that apply on or beyond adjacent lot line or zone boundaries outside the property of the creator

of such noise. Noises shall not exceed the maximum sound levels specified in the table, except as otherwise specified herein. Where more than one specified sound level applies, the more restrictive shall govern. Measurements shall be made at points of maximum noise intensity.

#### NOISE LEVEL RESTRICTIONS

Residential Lot Lines	55dB (A)	from 7:00 AM to 9:00 PM
Lot adjoining Business District	45dB (A)	9:00 PM to 7:00 AM
Lot line of creators' property	60dB (A)	

The following uses and activities shall be exempt from noise level restrictions:

1. Noises not directly under the control of the property user
2. Noises emanating from construction activities between 7:00 AM and 9:00 PM
3. The noises of safety signals, warning devices, and emergency equipment

Odor: No emission of odorous gas or other odorous matter in such quantity as to be readily detectable without the use of instruments at any point at or beyond the lot lines shall be permitted.

Adopted July 1, 2003

### 613.00 Signs, Canopies, Awnings, and Marquees

- 613.01 Definitions
- 613.02 Interpretation
- 613.03 General Regulations
- 613.04 Residential Districts
- 613.05 Business Districts
- 613.06 Removal of Nonconforming Signs

#### 613.01 Definitions

For the purpose of this chapter, signs and certain categories of signs are defined as follows:

**Sign:** Any device designated to inform or attract the attention of persons non on the premises on which the sign is located, provided, however,

that the following shall not be included in the application of the regulations herein:

1. Signs not exceeding one square foot in area and bearing only property numbers, post box numbers, names of occupants of premises, or other identification of premises not having commercial connotations
2. Flags and insignia of any government except when displayed in connection with commercial promotion
3. Legal notices, identification, informational or directional signs erected or required by governmental bodies; historical markers
4. Integral decorative or architectural feature of buildings, except letters, trademarks, moving lights
5. Signs directing and guiding traffic and parking on private property, but bearing no advertising matter

**On-Site Sign:** A sign relating in this subject matter to the premises on which it is located, or to products, accommodations, services or activities on the premises. On-site signs do not include signs erected by the outdoor advertising industry in the conduct of the outdoor advertising business.

**Off-Site Sign:** A sign other than on on-site sign.

Adopted 7/1/2003

### 613.02 Interpretation

For the purpose of determining number of signs, a sign shall be considered to be a single display surface or display device containing elements organized, related and composed to form a unit. Where matter is displayed in a random manner without organized relationship of elements or where there is a reasonable doubt about the relationship of elements, each element shall be considered to be a single sign. The surface area of a sign shall be computed as including the entire area within a rectangle, triangle or circle or other geometric form comprising all of the elements of the matter displayed. Frames and structural members not bearing advertising matter shall not be included in computation of surface area.

Adopted 7/1/2003

### 613.03 General Regulations

Before any sign is erected in any district of the Town detailed specifications as to its size, configuration, materials, colors, illumination, erection and location, including a scaled drawing or sketch, shall be submitted to the Town Council for review as to its conformity with all the provisions of this Article and for determination as to where such sign conforms to the acceptable aesthetic standards and, if the review is favorable, the Council shall issue a building permit to erect such sign: Except that any non-illuminated sign of more than one square foot in area, provided it meets all the applicable provisions of the Article, shall not require review and approval.

No sign, canopy, awning, marquee or like structure shall be placed in such a position that it will cause danger to traffic or a street by obscuring the view. No sign shall be erected or maintained which imitates or resembles any official traffic signal, sign or device. No sign incorporating red, amber or green lights shall be permitted in such proximity to a traffic signal light that, in the opinion of the Mayor, could be mistaken for such traffic signal by a driver.

No sign, canopy, awning, marquee or like structure shall be erected in or project into any public park, street or highway, or over, or in or into any sidewalk in the Town except as herein provided. Temporary awnings projecting over a public sidewalk may be permitted during the summer or customary seasons of the year, provided that they are erected and maintained in a safe and proper manner. On business buildings constructed with a front yard, a sign mounted flush on the face of such building may project not more than ten (10) inches into or over the sidewalk. The Board of Zoning Appeals may permit, as a special exception in the business district only, a permanent canopy or marquee over a public sidewalk.

Signs of any size mounted on trailers, and other portable signs with an area on one side in excess of ten (10) square feet, are strictly prohibited, and no variance or special exception shall be granted authorizing such a sign. A truck or other vehicle displaying a sign larger than ten (10) square feet in area may circulate in the streets of the Town, but no vehicle displaying such a sign shall be parked for longer than one hour in any day.

No sign shall incorporate a bare incandescent bulb with wattage exceeding twenty (20) watts, except as a shielded, indirect light source. No illuminated sign shall be permitted which produces an illumination exceeding five-tenths (0.5) foot-candles in a residence district.

Electric or illuminated signs shall be installed in strict conformity with applicable electrical codes. No electrical wire or cable serving an electric or illuminated sign shall be laid on the surface of the ground.

Signs shall not be erected or maintained upon trees, or painted or drawn upon rocks or other natural features.



All signs, canopies, awnings, marquees, and like structures shall be kept in good repair and shall not be permitted to become unsightly or dilapidated. Adopted 7/1/2003

#### 613.04 Signs in Residential Districts

The following types of signs and no others shall be permitted in a residential district.

One sign on any premise announcing the conduct of a home occupation, provided that such sign shall not exceed three (3) square feet in area, shall be non-illuminated, and shall be mounted flat against the wall of the principal building.

One identification sign each for schools, churches, hospitals or similar institutions provided that the area on any one side of any such sign shall not exceed twenty-four (24) square feet; and one identification sign for clubs, lodges, farms or similar uses, provided that the area on one side of any such sign shall not exceed twelve (12) square feet

Real estate signs advertising the sale, rental or development of premises, provided that the area on one side of such sign shall not exceed twelve (12) square feet. Real estate signs shall be located at least fifteen (15) feet from any street line.

Temporary signs of building contractors, and artisans, provided that such signs shall be moved upon completion of the work.

An ornamental gateway leading to a residential subdivision of district may incorporate a sign announcing the name of such subdivision or district, but not including the name of the developer or other commercial information. Such a sign shall not exceed forty-five (45) square feet in area. Such a gateway shall comply with all regulations of this chapter related to vision at street corners.

When a funeral home, nursing home, or medical or dental clinic is authorized in a residential district as a special exception, the Board of Zoning Appeals shall specify the number, type, and size of signs to be allowed for such uses; and

The Town Council may, as a special exception, permit temporary signs and displays in connection with civil activities such as a clean-up and fund-raising activities. Adopted 7/1/2003

## 613.05 Signs in the Business District

On-site Signs. On-site signs in the business district shall be subject to the following regulations:

Wall Signs. Signs shall be stationary, non-flashing, single faced and be attached to a building. No sign shall project more than eighteen (18) inches beyond the face of a building or project above the roofline of the building face to which it is attached. The face areas of such signs shall not exceed twenty-five (25) square feet.

Post signs. One (1) post sign will be permitted for each individual business conducted on the premises. Signs shall be stationary, non-flashing and must be erected with a minimum clearance of ten (10) feet from the curb surface and a maximum height of twenty (20) feet. All post signs must be constructed clear of public property lines and must not exceed one hundred (100) square feet in area per face.

Ground Signs. Ground signs will be allowed in landscaped areas in all business districts. Ground signs can be placed on one (1) or more posts. A ground sign may have a face size no larger than five (5) percent of the landscaped area in which it is set, with a maximum size of twenty-five (25) square feet. The maximum height of a ground sign shall be eight (8) feet. Adopted 7/1/2003

Regulations applying to all signs:

Signs projecting over public property: Signs projecting from a building or extending over public property shall maintain a clear height of nine (9) feet above the sidewalk or ground, level, and all such signs shall not extend closer to the street than eighteen (18) inches from the property side of the curb line.

No flashing or animated signs: No sign shall be erected or maintained which is animated or which contains, included or is illuminated by any flashing, intermittent or moving lights, except those giving public service information such as time, date, temperature, weather or news.

Sign maintenance. All signs shall be maintained and kept in good repair. No property owner or business tenant shall allow any sign to remain in place which is in disrepair or which advertises for a business no longer in operation. Upon notice from the appropriate town official, any property owner or business tenant shall promptly and in no case later than thirty (30) days remove or repair any such sign. In default of compliance with such notice, then the Town shall remove any such sign in disrepair or for a business no longer functioning and assess the costs to the property owner or business tenant, as the case may appear, for said work.

No Produce or Brand-Name Signs. No signs shall be erected or maintained which contains in whole or in part any reference by name, logo or trademark to a particular product or brand name, except those identifying a single brand name of the principal petroleum products provided by an automobile service station or those identifying any establishment operating under a franchise.

No neon or garish signs. No sign shall be erected or maintained which is illuminated by neon light or lights, or which is considered garish as determined by the Town Council. Adopted 7/1/2003

### **615.06 Removal of Nonconforming Signs**

Non-durable and Temporary Signs: Signs which do not conform to the requirements of this ordinance with respect to number, sign surface area, location on the lot or otherwise, and which are made of paper, cloth or other nondurable material or are free standing signs not affixed to a building surface or the ground and which are not properly maintained shall be removed within six (6) months after the effective date of this zoning law. Adopted 7/1/2003

## **617.00 Effects of Chapter**

617.01 Severability

617.02 Repeal of Existing Ordinances

### **617.01 Severability**

If any article, section or other part of this Chapter is determined to be in violation or otherwise not in conformity with the laws, statutes or constitutions of the State of West Virginia or the United States of America, such article, section or part of this Chapter shall be interpreted and enforced so as to comply and conform with any such law, statute or constitution without affecting the validity and ability to be enforced of the remaining articles, sections and parts of the Chapter which conform with and do not violate such laws, states, or constitutions. Adopted 7/1/2003

### **617.02 Repeal of Existing Ordinances**

Provisions of Chapter 10 of the Town Ordinance existing as of the date of passage of this ordinance are hereby repealed in their entirety. Adopted 7/1/2003

## CHAPTER VII STREETS AND SIDEWALKS

### 701 Definitions

701.01	Streets
701.02	Sidewalks
701.03	Owners
701.04	Occupant
701.05	Person

#### 701.01 Streets

The term streets, when used in the Ordinances of the Town of Athens, is intended to mean and include all streets, alleys, lanes, and ways within the corporate limits of said Town. Adopted 7/1/2003

#### 701.02 Sidewalks

The term sidewalk, when used in the Ordinances of the Town of Athens, is intended to mean that part of the road adapted to the use or ordinarily used by pedestrians and includes that part of the road between the curb line or edge of the road where there is no curb line and the adjacent property line, whether or not paved or improved, within the corporate limits of said Town. Adopted 7/1/2003

#### 701.03 Owner

The term owner, when used in the Ordinances of the Town of Athens, is intended to mean (a) in the case of land, any person who is recorded on the tax records as the owner of the land or (b) in the case of property other than land, any person who is in laws possession thereof. Adopted 7/1/2003

#### 701.04 Occupant

The term occupant, when used in the Ordinances of the Town of Athens, is intended to mean (a) person who is in physical possession of a property, or (b) a person who has responsibility for, and control over, the condition of a property, the activities conducted on that property, and the persons allowed to enter that property. Adopted 7/1/2003

#### 701.05 Person

The term person, when used in the Ordinances of the Town of Athens, is intended to mean any individual, corporation society, association, partnership or firm, and the successor or the heir, executor,

administrations or other legal representatives of a person. Adopted 7/1/2003

## 703.00 Street Names and Numbering

- 703.01 General
- 703.02 Intent
- 703.03 Map
- 703.04 Street Names
- 703.05 Numbering System
- 703.07 Numbers
- 703.08 Vacant Lots
- 703.09 Adoption and Amendments

### 703.01 General

It is hereby established and recorded the names of the streets and an orderly and sequential system of numbering street addresses in the Town of Athens. The purpose of this Ordinance is to formalize the designation of street names, and to create an orderly, sequential system of addressing for the emergency location of homes and businesses and to comply with State law pertaining to voter registration. Adopted 10/21/2003

### 703.02 Intent

It is not the intent of this Ordinance to effect wholesale changes to street names or numbers which have already been adopted. It is the intent to continue the use of street names and numbers which have already been adopted. Where street numbers have not been adopted or where adopted, the street numbers are clearly in conflict with the orderly and sequential system hereby established, street numbers assigned by the Town Council shall be posted and the property owners notified. Adopted 10/21/2003

### 703.03 Map

There is hereby established as a part of this Ordinance and placed on permanent file with the records of the Town of Athens, a map entitled ATHENS ZONING, STREET NAMES AND NUMBERING. This map shall

contain the name assigned to each street and the street number assigned to each address within the Town. Changes and additions or deletions shall be permanently recorded on the map. Adopted 10/21/2003

### 703.04 Street Names

Street names shall be as initially recorded on the map and as may be amended in accordance with Article 703.09. Adopted 10/21/2003

### 703.05 Numbering System

Addresses shall be assigned in sequence moving away from the main arterial streets, State Street and Vermillion Street. Addresses on the left-hand side moving away from the main arterial streets shall be odd-numbered, beginning with 101. Addresses on the right-hand side moving away from the main arterial streets shall be even-numbered, beginning with 100. Streets which do not intersect either of the main arterial streets shall be addressed as if they did intersect, beginning with street numbers 101 and 100 respectively on the left and right sides at the end closest to the main arterial streets. Adopted 10/21/2003

### 703.06 Assignment

The Athens Town Council is by this Ordinance empowered to assign street names and numbers. Property owners shall, within sixty (60) days of receipt of notification of their assigned number, post in a prominent place that number. Failure to do so shall be punishable by a maximum fine of Twenty-Five Dollars (\$25.00). Adopted 10/21/2003

### 703.07 Numbers

Street numbers shall be at least four (4) inches high, clearly visible from the street, and colored so as to contrast with the background. Number may be posted on the structure proper, a porch, a spot, a gatepost or such other location as will enhance visibility. Shrubby and foliage shall be kept cleared from the posted number. Adopted 10/21/2003

### 703.08 Vacant Lots

When a lot is unoccupied (vacant) and it appears that it might reasonably be built upon, the street number which would be assigned to that location shall be left unused. When a lot is built upon and when no street number has been left unused, that building shall be assigned the next lower adjacent number plus "1/2". Adopted 10/21/2003

### 703.09 Adoption and Amendments

This ordinance, together with its map, shall be adopted by action of the Town Council after first and second public readings. Amendment to street names and street numbering, together with changes to the map, shall likewise be adopted by action of the Town Council after first and second readings.

## 705.00 Sidewalks

705.01 Construction of Sidewalks  
705.02 Repair of Sidewalks  
705.03 Cleanliness of Sidewalks  
705.04 Obstruction of Sidewalks  
705.05 Removal of Ice and Snow  
705.06 Duty to Trim

### 705.01 Construction of Sidewalks

Sidewalks may be constructed by persons owning land abutting upon roadways of the Town or by the Town Council. All construction must allow handicapped accessibility. Once constructed, the maintenance of the sidewalks will be the responsibility of the landowner abutting the sidewalk as delineated in Article 705.02. Adopted 10/21/2003

### 705.02 Repair of Sidewalks

Whereas, every occupant, owner or person of every house, shop, building, lot, parcel of land, or other property that adjoins or is abutting to or on a sidewalk in the Town of Athens shall be charged with the responsibility to keep such sidewalk in good state of repair and free from defects and debris. Failure to maintain will result in the Town of Athens, undertaking such repair or remedy and charging back to the property owner. On any claim presented for bodily injury or property damage on the sidewalk, the adjoining or abutting property owner shall be held liable in tort for such damage to another. Alternatively, should the Town of Athens be called upon to make such payment to a third party, the Town will look to the adjoining/abutting landowner for contribution and indemnity.

It shall be unlawful for any person to repair or cause a repair to cross a sidewalk or allow a hole to be present in a sidewalk without providing a safe and secure covering of such hole or opening. It shall be unlawful to fail to provide guardrails or bars around such openings so as to guard persons from falling there while such holes or openings are being used or repaired. Adopted 10/21/2003

### 705.03 Cleanliness of Sidewalks

It shall be unlawful for any person, firm, or corporation owing or occupying property abutting upon the sidewalks in the Town to cause or to permit said sidewalks to be unclean, covered with rubbish, dirt, or filth, to fail to free same from obstructions, dirt and filth of any kind and character whatsoever, regardless of how such dirt, rubbish or other filth may have accumulated there. Any person, firm, or corporation violating any provision of this article shall, upon conviction, be fined not less than Five Dollars (\$5.00) nor more than One Hundred Dollars (\$100.00). Adopted 10/21/2003

### 705.04 Obstruction of Sidewalks

It shall be unlawful for any person or persons to obstruct the use of sidewalks in said Town by placing goods, wares, merchandise or other articles for sale thereon, or make any public exhibit, entertainment or show of any kind or character, which would obstruct the free use of said sidewalk. Any person violating any provision of this article, upon conviction, shall be fined not less than Five Dollars (\$5.00) nor more than One Hundred Dollars (\$100.00). Adopted 10/21/2003

### 705.05 Removal of Ice and Snow

Every person or public institution using or occupying in any manner or for any purpose whatsoever any house, store, shop, garage, tenement, or building of any kind or any vacant lot, and all persons having charge or churches and public buildings of every description and the owner of unoccupied houses and unimproved or unoccupied lots abutting on a sidewalk in the Town and their agents, shall within three (3) hours after the fall of any snow or the formation of any ice on the sidewalk on which the property abuts, remove and clear, or cause to be removed and cleared, such snow and ice in such manner as to leave the sidewalk free and clear of such deposits, and in such manner as not to obstruct the passage of water in the gutter adjacent to the sidewalk; provided that, if snow falls or ice forms between the hours of 6:00 PM and 6:00 AM, the following morning, such snow or ice shall be removed before 11:00 AM. Adopted 10/21/2003

### 705.06 Duty to Trim

It shall be the duty of every owner, controller and manager of lots bounding and abutting on street areas, including sidewalks, of the Town for the distance which their lots so abut and border, to take the following steps for the protection of the public:

1. To cut away and remove all trees, parts of trees and limbs which are dead or which because of decay or other causes, threaten the safety of persons using the streets and sidewalks.



2. To trim, cut away, and remove overhanging limbs of trees and shrubs so that no part thereof shall be lower than seven (7) feet from a sidewalk or ten (10) feet from the surface of a street over which they hang.
3. To cut and remove all weeds and bushes which grow or encroach upon a sidewalk or street.
4. To keep all hedges so trimmed that they will not extend over any part of a street or sidewalk and will not be of greater height than three (3) feet.
5. To cut down and remove any tree, plant or shrubbery, or any part thereof, as may be necessary to provide a clear and unobstructed view of traffic from all directions at any street intersection, or to abate any nuisance necessary to protect life, limb, or property of persons, drivers of any vehicles or pedestrians using such street or sidewalk.

In the event of the failure of such owner, controller, or manager to perform any service required by subsections above, then the Mayor may have such work done by Town employees or by an independent contractor, at the expense of the owner of such lot. Adopted 10/21/2003

## 707 Street Regulations

- 707.01 Obstruction of Streets
- 707.02 Guarding Obstructions
- 707.03 Placing Injurious Materials in Street
- 707.04 Bodily Injury

### 707.01 Obstruction of Streets

No person or group of persons shall block off any street or part of a street without having obtained a permit to do so from the Mayor. The permit shall designate the street area to be blocked off. The duration and date of the obstruction shall be entered on the permit. The permit shall be issued without cost. Adopted 10/21/2003

### 707.02 Guarding Obstructions or Openings

No person shall have or maintain an opening in the street or sidewalk which opening is not protected by a covering and surrounding railing. When any such opening is to be left uncovered for any length of time and it is not practicable to station an attendant thereat, the

opening shall be substantially fenced or barricaded of it such a manner that pedestrians or vehicles shall not fall or step therein. No person shall allow any obstruction, uneven surface or slick surface dangerous to life or limb to exist within the corporate limits. Adopted 10/21/2003

#### **707.03 Placing Injurious Material in Street**

No person shall throw or deposit upon any street any glass bottle, glass, nails, tacks, wire, cans or any other substance likely to injury any person, animal, or vehicle upon such street.

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

It shall be unlawful for any person to burn or cause to be burned any combustibles in any part of the street or in any yard in said Town, providing, however, that this provision shall not apply to workmen whose business requires outdoor fires. Adopted 10/21/2003

#### **707.04 Bodily Injury**

It shall be unlawful to use the street of the Town for any game or sport or other purpose which might produce bodily injury to anyone, or endanger the life or property of any person, on any street, sidewalk, or alley of said Town.

## CHAPTER VIII RENTAL HOUSING CODE

### 101.00 General

#### 1.1 Scope

This Rental Housing Code establishes the rules and regulations considered necessary by the Town Council of the Town of Athens as minimum standards for rental housing and to ensure the quality of construction of all rental structures constructed or renovated and reoccupied after a period of vacancy in the Town of Athens. An owner occupied dwelling is specifically excluded from this Rental Housing Code even if a part, portion or unit of such residence is leased or rented to persons other than such owner.

#### 1.2 Authority

This Rental Housing Code has been enacted pursuant to the authority of West Virginia Code Chapter 8, Article 12, Section 13; and, Title 87, Series 4 of the Legislative rules of the State Fire Commission of the State of West Virginia.

#### 1.3 Effective Date

This Rental Housing Code is effective upon adoption by the Town Council of the Town of Athens on July 27, 1993, and will apply to all construction, repairs, renovations, improvements, additions or other modifications in progress at that time and to any rental dwelling or rental dwelling unit which is unoccupied at that time.

#### 1.4 Incorporation of Other Documents

This Rental Housing Code does not include a reprinting of all the requirements imposed by statute or by the incorporation of various nationally recognized standards and codes identified and incorporated in Section 4.1 of this Rental Housing Code. For ascertaining these additional standards and requirements, it is necessary to make reference to such statutes, standards and codes.

## Definitions

### 2.1 Rental Housing Code

Rental housing code means the entire contents of this code and the referenced National Codes and includes all aspects of safe building construction and mechanical operations and all safety aspects related thereto.

### 2.2 Mayor

Mayor means the Mayor of the Town of Athens.

### 2.3 Building Inspector

Building inspector means the person appointed by the Mayor as the building inspector to initiate, undertake and perform inspections and make recommendations as permitted or required in this Rental Housing Code and the provisions of the Code of Laws of the Town of Athens.

### 2.4 Uninhabited

Uninhabited means not occupied by a human or humans for the purpose of a primary residence. Entry or occupancy of a dwelling unit or structure for a continuous period of less than one (1) week will not be considered as habitation.

### 2.5 BOCA

BOCA refers to the "Building Officials & Code Administrators International: 4051 Flossmoor Road, Country Club Hills, Illinois 60477-5795, 708-999-2300.

### 2.6 CABO

Refers to the "Council of American Building Officials," 5203 Leesburg Pike, Suite 708, Falls Church, Virginia 22041.

## 2.7 Rental Dwelling Unit

Rental dwelling unit means one or more rooms intended to be occupied for living purposes by someone other than the owner of the house, building or mobile home containing such unit. Also, it is a separate and distinct unit for the purpose of providing privacy to the renter or occupier thereof, whether a single person, a family related by blood or marriage, or a group of no more than three persons, without regard to whether such unit has separate kitchen or bathing facilities. A rental dwelling unit may include a single room which shares other bathing or kitchen facilities, an apartment which includes bathing and kitchen facilities, or a rooming unit which means a room or group of rooms intended to be occupied for living and sleeping, but not for cooking. Any house, building, mobile home, apartment or rooming unit which contains more than three persons unrelated by blood or marriage may, in the discretion of the building inspector, be considered to be separate rental dwelling units according to the number of bedrooms or other rooms used for sleeping purposes contained therein for the purpose of enforcement of this Rental Housing Code.

## 2.8 Rental Dwelling

Rental dwelling means any house, building, mobile home or portion thereof intended to be occupied as a place of habitation of human beings, either permanently or transiently, except for houses, building or mobile homes occupied by the owner thereof. Owner occupied houses, building or mobile homes are specifically excluded from this Rental Housing Code even though such owners occupied house, building or mobile home may also contain one or more rental dwelling units.

## 2.9 Inspection Report

Inspection report means a document issued by the building inspector to show that the premises have been inspected, the date and time of such inspection, the violations and/or deficiencies in compliance with the National Codes which exist at the time of such inspection and setting forth the period of time in which the owner has to rectify such violations or deficiencies noted.

## 2.10 Owner

Owner means the person or persons or corporation or other legal entity which owns the real estate upon which any house or structure is situated and, in the case of a mobile home, any person or group of people, corporation or other legal entity which owns such mobile home. For the purpose of the enforcement of this Rental Housing Code, the owner of any home, building or mobile home will be determined as of the date any letter of compliance, letter of noncompliance, warning, citation or other document is issued by the Mayor or building inspector. For the purpose of this Rental Housing Code, owner includes an agent of the owner empowered

by the owner to act on matters pertaining to the rental or occupancy of rental dwellings or rental dwelling units and/or any construction, renovation, modification, or enlargement, thereof.

### 2.11 Letter of Compliance

Letter of compliance means a document issued by the building inspector indicating the inspection found the premises to be in a substantial compliance with this Rental Housing Code on the date of the inspection, which may include a certificate of occupancy permitting the owners to rent the rental dwelling or rental dwelling unit subject to any restrictions contained therein.

### 2.12 Letter of Noncompliance

Letter of noncompliance means a document issued by the Mayor indicating that an inspection by the building inspector found violations of or noncompliance with the National Codes or this Rental Housing Code sufficient to withhold or revoke a letter of compliance. A letter of noncompliance will include a copy of the inspection report of the building inspector and will set forth the process for reinspection and compliance.

### 2.13 Certificate of Occupancy

Certificate of occupancy means a certificate issued by the Mayor permitting the owner of a rental dwelling or rental dwelling unit to rent such rental dwelling or rental dwelling unit to a person or persons who may immediately occupy or reoccupy such rental dwelling or rental dwelling unit subject to any terms or restrictions contained therein.

### 2.14 Rental or Occupant of a Rental Dwelling or Rental Dwelling Unit

Rental or occupant of a rental dwelling or rental dwelling unit means a person other than the owner of a person directly related to the owner by blood or marriage who is occupying any such dwelling or unit based upon the agreement or promise to pay consideration therefore, whether in cash or in the form of other property or services, and may, in the discretion of the Mayor, include persons inhabiting such dwellings or units at the will and pleasure of the owner without any apparent consideration. A direct relative by blood or marriage shall be limited to great-grandparents, grandparents, parents, siblings, children, grandchildren, great-grandchildren, spouses, and any "step" relatives of the same designation and may also include first cousins, but will include no others.

## 2.15 Warnings

Warnings mean any written communication from the building inspector advising of a suspected noncompliance, advising of the initial or extended period of time within which to abate any suspected noncompliance, and/or advising of the possible issuance of citations or other documents in relation to any nonconforming condition. The building inspector may issue a warning prior to the issuance of a citation by the Mayor, but such warning is not required as a prerequisite to the issuance of a citation.

## 2.16 Citation

Citation means a document issued by the Mayor setting forth that a noncompliance exists and has not been corrected in conformity with a letter of noncompliance or otherwise in conformity with this Rental Housing Code. A citation will include the penalty imposed by the Mayor and will instruct that the failure to correct or abate the noncompliance may result in further penalties for each day such noncompliance exists.

## 3.1 Conflicts

Whenever a conflict arises between this Rental Housing Code and the State Fire Code of the State of West Virginia, the State Building Code of the State of West Virginia or the Rules of the West Virginia State Board of Health, the State Fire or Building Code or the Rules of the Board of Health shall take precedence.

## 3.2

Whenever there arises a conflict between this Rental Housing Code and any statute, rule or regulation of the State of West Virginia or the State Fire Commission of the State of West Virginia, such statute, rule or regulation of the State of West Virginia or the State Fire Commission of West Virginia will take precedence.

## 3.3

Whenever there arises a conflict between this Rental Housing Code and the National Codes to the extent the National Codes may appear to apply to buildings, houses, mobile homes, or other structures other than rental dwellings or rental dwelling units as defined in this Rental Housing Code and/or to the extent the National Codes may define or describe terms or conditions or the application thereof differently than this Rental Housing Code, this Rental Housing Code will take precedence in conformity with the scope of this Rental Housing Code as set forth in Section 1.1. National Standards and Codes Article 4.1

The standards and requirement as set out and as published by the BOCA and the CABO, as listed below, shall have the same force and effect as if set out verbatim in this Rental Housing Code and are hereinafter referred to as the "National Codes".

1. The BOCA      National Building Code, Eleventh Edition, 2009
2. The BOCA      National Plumbing Code, Eighth Edition, 2009
3. The BOCA      National Mechanical Code, Seventh Edition, 2009
4. The BOCA      National Property Maintenance Code, Third Edition, 2009
5. The BOCA      National Energy Conservation Code, Sixth Edition, 2009
6. The CABO      One- and Two-Family Dwelling Code, 2009 Edition
7. The NFPA      National Electrical Code, 2009 Edition.
8. The IPMC      International Property Maintenance Code, 2009 Edition.

## 4.2

A copy of the National Codes listed in Section 4.1 of this Rental Housing Code has been filed in the Office of the Town of Athens. These National Codes collectively or separately, may be reviewed at said office at any reasonable time and upon advance request or may be obtained by contacting the Building Officials & Code Administrators International, 4051 West Flossmoor Road, Country Club Hills, Illinois 60577-5795, telephone 708-799-2300; or BOCA International Regional Offices, 3592 Corporate Drive, Suite 107, Columbus, Ohio 43231, telephone 614-890-1064.

## 5.1 Appeal Board

The Board of Zoning Appeals authorized and empowered by Section of the Code of Laws of the Town of Athens will hereinafter have the additional designation and is hereby authorized and empowered to act as the Rental Housing Code Board of Appeals to act upon all appeals as in the manner and to the extent authorized or permitted by the National Codes, and to the extent the National Codes set forth or recommended qualifications for members or a different procedure for the appointment or members, the provisions of Section shall take precedence.

## 5.2

Any National Code which does not set forth an appeal procedure will adopt the procedures set forth in the BOCA National Building Code. General Provisions Article 6.1

All buildings and other structures containing one or more rental dwelling units, which are constructed after the date of enactment of this



Rental Housing Code shall comply with the National Codes and all repairs, renovations, improvements, additions, or other modifications to any existing building or structure containing one or more rental dwelling units or to any single rental unit within a larger building or structure shall be performed so as to comply with the National Code.

## 6.2

Any rental unit which remains uninhabited for four (4) months or more shall not be reoccupied by anyone other than the owner thereof until the issuance by the Mayor of Certificate of Occupancy to the owner or his authorized agent, which Certificate of Occupancy will not be issued until the building inspector has performed an inspection and certified that such rental unit conforms with this Rental Housing Code.

## 6.3

If any provision of this Rental Housing Code or the National Codes incorporated herein, or the application thereof to any person or circumstances, is determined to be invalid, such invalidity shall not affect other provisions or applications of this Rental Housing Code which can be given effect without the invalid provision or application, and to this end the provisions of this Rental Housing Code are declared to be severable.

## 6.4

It shall be illegal for any renter or occupant to occupy or allow any other person to occupy any rental dwelling or rental dwelling unit for more than the time period indicated in the building inspector's report after the effective date of a letter of noncompliance for that rental dwelling or rental dwelling unit, or to occupy such rental dwelling or rental dwelling unit at any time after the building inspector finds that the vacation of such rental dwelling or rental dwelling unit is necessary before abatement of a noncompliance can reasonably proceed. The failure of an owner to comply with this provision will subject him to the penalties contained herein.

## 6.5

It shall be illegal for an owner to permit a state of noncompliance with this rental dwelling code to exist after the time set by the building inspector or the Rental Dwelling Code Board of Appeals before abating such non-conformance, subject to the penalties hereinafter set forth.

## 7.1 Building Inspector

The building inspector of the Town of Athens is the person designated as the "Code Official" in the National Codes and is hereby authorized to perform the inspections permitted and/or recommended in the National Codes and in this Rental Housing Code, to make all investigations and determinations necessary and issue such warnings, letters or notices of violations as may be required to fully effectuate this Rental Housing Code, and to advise the Mayor and make recommendations to the Mayor concerning the issuance of certificates of occupancy, citations, warnings, or charges for violations of this Rental Housing Code.

## 7.2

The Mayor is hereby authorized to select and employ on behalf of the Town of Athens a consultant or person other than the building inspector to perform the services with the full authority of the building inspector, either in regard to a specific situation or in regard to a specific property or properties, or as may in the Mayor's discretion be necessary generally to effectuate this Rental Housing Code. Such consultant or other person may, in the discretion of the Mayor, act in the place of and with full authority of the building inspector, or act under the direction or supervision of, or in conjunction with the building inspector.

## 7.3

The building inspector is specifically given the right and authority to enter into any rental dwelling or rental dwelling unit, at any reasonable time between 8:00 a.m. and 11:00 p.m. after 24 hours advance written notice to the owner, for the purpose of inspection and investigation. During any period of construction, renovation, repairs, improvements, additions, or other modifications to any rental dwelling or rental dwelling unit, the building inspector may enter into any such rental dwelling or rental dwelling unit without notice from time to time is reasonable to perform the inspections which he, in his discretion, considers necessary to perform his duties hereunder. For the purpose of determining whether a rental unit or rental dwelling unit is unoccupied, the building inspector is not required to enter into such rental dwelling or rental dwelling unit but may rely upon general observations to determine the time and duration that such property is unoccupied.

## 7.4

The building inspector may at his discretion specify stages at which inspections are to be conducted and may require that work be stopped at these stages for inspection. Such inspections must be scheduled so as not to unduly delay the course of construction.

## 7.5 Penalty

Any owner who fails to comply with any requirement or provision of this Rental Housing Code which is not specifically addressed in any violation or penalty provision of the National Codes, or with any warning or notice of violation of the building inspector shall be fined not less than Twenty-Five Dollars (\$25.00) nor more than Three Hundred Dollars (\$300.00). Each day during which any violation of this Rental Housing Code continues shall constitute a separate offense. In addition to the above penalties, all other actions are hereby reserved, including an action in a court having jurisdiction thereof for the property enforcement of this Rental Housing Code and the collection of penalties or fines imposed hereunder. The imposition of a fine or penalty for any violation of, or noncompliance with, this Rental Housing Code shall not excuse any subsequent violation or noncompliance or permit such violation or noncompliance to continue, and all owners so penalized or fined shall be required to correct or remedy such violations or non-compliances within a reasonable time as determined by the building inspector.