

CHAPTER SEVEN - Parking

Art. 361. Parking Generally.

Art. 363. Parking Meters.

**ARTICLE 361
Parking Generally**

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CROSS REFERENCES

See sectional histories for similar State law

Authority to regulate the standing or parking of vehicles - see W. Va. Code 17C-2-8(a)(1)

Authority to regulate parallel and angle parking - see W. Va. Code 17C-13-4

Impounding of abandoned vehicles - see TRAF. 303.07

Duty to stop engine, set brake on grade and remove key - see TRAF. 349.01

361.01 PROHIBITION AGAINST PARKING ON STREETS OR HIGHWAYS.

(a) Upon any street or 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 street or highway when it is practicable to stop, park or so leave such vehicle off such part of the street or highway, but in every event an unobstructed width of the street or 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 200 feet in each direction upon such highway or street.

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

(WVaC 17C-13-1)

361.02 POLICE MAY REMOVE ILLEGALLY STOPPED VEHICLES.

(a) Whenever any police officer finds a vehicle standing upon a street or highway in violation of Section 361.01, 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 street or highway.

(b) Whenever any police officer finds a vehicle unattended upon any bridge or causeway or in any tunnel where such vehicle constitutes an obstruction to traffic, such officer is hereby authorized to provide for the removal of such vehicle to the nearest garage or other place of safety.

(WVaC 17C-13-2)

361.03 PROHIBITED STOPPING, STANDING OR PARKING PLACES.

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

- (1) On a sidewalk;
- (2) In front of a public or private driveway;
- (3) Within an intersection;
- (4) Within 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 such 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) Upon any bridge or other elevated structure upon a street or highway or within a street or highway tunnel;
- (15) At any place where signs prohibit stopping, standing or parking, or where the curbing or street is painted yellow or red, or at any place in excess of the maximum time limited by signs;
- (16) Within twenty feet of any mail receptacle served regularly by a carrier using a motor vehicle for daily deliveries, if such parking interferes with or causes delay in the carrier's schedule;
- (17) Upon any controlled-access highway;
- (18) At any place on any street or highway where the safety and convenience of the traveling public is thereby endangered;
- (19) Over or across any lines or marks established by the Municipality to indicate parking spaces.
- (20) 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.

(b) No person shall move a vehicle not lawfully under his control into any such prohibited area or away from a curb such distance as is unlawful.
(WVaC 17C-13-3)

361.04 VEHICLES PARKED ON PRIVATE PROPERTY.

No driver of a vehicle shall 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. 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 State Police of such action, and, in addition notify the Police Department.
(WVaC 17C-14-13)

361.05 MANNER OF ANGLE AND PARALLEL PARKING.

(a) Every vehicle stopped or parked upon a roadway where there is an adjacent curb shall be stopped or parked with the curb-side wheels of such vehicle parallel with and not more than eighteen inches from the curb, unless it is impossible to approach so close to the curb; in such case the stop shall be as close to the curb as possible and only for the time necessary to discharge and receive passengers or to load or unload merchandise.

(b) This subsection does not apply to streets or parts thereof where angle parking is lawfully permitted. However, no angle parking shall be permitted on a State or Federal-aid route unless approved by the State Commissioner of Highways.

(c) Upon streets where angle parking is permitted, no person shall stop, stand or park a vehicle other than at the angle to the curb or edge of the roadway as is indicated by appropriate signs or marks.

(d) No vehicle shall be stopped or parked on a road or street with the vehicle facing in a direction other than the direction of travel on that side of the road or street.

361.06 ACCESSIBLE PARKING.

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

- (1) A person or applicant with a "mobility impairment" means a person who is a citizen of West Virginia and as determined by a physician, allopath or osteopath licensed to practice in West Virginia:
 - A. Cannot walk two hundred feet without stopping to rest;
 - B. Cannot walk without the use of or assistance from a brace, cane, crutch, prosthetic device, wheelchair, other assistive device or another person;
 - C. Is restricted by lung disease to such an extent that the person's force (respiratory) expiratory volume for one second, when measured by spirometry, is less than one liter or the arterial oxygen tension is less than sixty mm/hg on room air at rest;
 - D. Uses portable oxygen;
 - E. Has a cardiac condition to such an extent that the person's functional limitations are classified in severity as Class III or Class IV according to standards established by the American heart association; or
 - F. Is severely limited in his or her ability to walk because of an arthritic, neurological, or other orthopedic physical condition.
- (2) "Special registration plate" means a registration plate that displays the international symbol of access in a color that contrasts with the background, in letters and numbers the same size as those on the plate, and which may be used in lieu of a regular registration plate.

- (3) “Removable windshield placard” (permanent or temporary) means a two-sided, hanger style placard measuring three inches by nine and one half inches, with all of the following on each side:
 - A. The international symbol of access, measuring at least three inches in height, centered on the placard, in white on a blue background for permanent designations and in white on a red background for temporary designations;
 - B. An identification number measuring one inch in height;
 - C. An expiration date in numbers measuring one inch in height; and
 - D. The seal or other identifying symbol of the issuing authority.
- (4) “Public entity” means state or local government or any department, agency, special purpose district or other instrumentality of a state or local government.
- (5) “Public facility” means all or any part of any buildings, structures, sites, complexes, roads, parking lots or other real or personal property, including the site where the facility is located.
- (6) “Place(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:
 - A. Inns, hotels, motels and other places of lodging;
 - B. Restaurants, bars or other establishments serving food or drink;
 - C. Motion picture houses, theaters, concert halls, stadiums or other places of exhibition or entertainment;
 - D. Auditoriums, convention centers, lecture halls or other places of public gatherings;
 - E. Bakeries, grocery stores, clothing stores, hardware stores, shopping centers or other sales or rental establishments;
 - F. Laundromats, dry cleaners, banks, barber and beauty shops, travel agencies, shoe repair shops, funeral parlors, gas or service stations, offices of accountants and attorneys, pharmacies, insurance offices, offices of professional health care providers, hospitals or other service establishments;
 - G. Terminals, depots or other stations used for public transportation;
 - H. Museums, libraries, galleries or other places of public display or collection;
 - I. Parks, zoos, amusement parks or other places of recreation;
 - J. Public or private nursery, elementary, secondary, undergraduate or post-graduate schools or other places of learning and day care centers, senior citizen centers, homeless shelters, food banks, adoption agencies or other social service establishments; and
 - K. Gymnasiums, health spas, bowling alleys, golf courses or other places of exercise or recreation.
- (7) “Commercial facility” means a facility whose operations affect commerce and which are intended for nonresidential use by a private entity.
- (8) “Accessible parking” formerly known as “handicapped parking” is the present phrase consistent with language within the American with Disabilities Act (ADA).

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

(c) 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.

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

(e) 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 parking privileges provided for in this subsection apply only during those times when the vehicle is being used for the loading or unloading of a person with a mobility impairment. Any person who knowingly exercises, or attempts to exercise these privileges at a time when the vehicle is not being used for the loading or unloading of a person with a mobility impairment, upon first conviction thereof, in addition to any other penalty he or she may otherwise incur, shall be fined one hundred dollars (\$100.00); upon second conviction thereof, in addition to any other penalty, he or she may otherwise incur, shall be fined three hundred dollars (\$300.00); and upon third and subsequent convictions thereof, in addition to any other penalty he or she may otherwise incur, shall be fined five hundred dollars (\$500.00).

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

Any person who violates the provisions of this subsection shall be fined one hundred dollars (\$100.00); upon second conviction thereof, in addition to any other penalty he or she may otherwise incur, shall be fined three hundred dollars (\$300.00); and upon third and subsequent convictions thereof, in addition to any other penalty he or she may otherwise incur, shall be fined five hundred dollars (\$500.00).

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

(h) No person may stop, stand or park a motor vehicle in an area designated or marked off as an accessible aisle to a van-accessible parking space or regular accessible parking space. Any person, including a driver of a vehicle displaying a valid removable windshield placard or special registration plate, who violates the provisions of this subsection shall be fined one hundred dollars (\$100.00); upon second conviction thereof, in addition to any other penalty he or she may otherwise incur, shall be fined three hundred dollars (\$300.00); and upon third and subsequent convictions thereof, in addition to any other penalty he or she may otherwise incur, shall be fined five hundred dollars (\$500.00).

(i) Parking enforcement personnel who otherwise enforce parking violations may issue citations for violations of this section and shall reference the number on the vehicle’s license plate, since the driver normally will not be present.

(j) Law-enforcement agencies may establish a program to use trained volunteers to collect information necessary to issue citations to persons who illegally park in designated accessible 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 accessible 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 accessible parking areas by the supervising law-enforcement agency.

(k) The Municipality in enforcing this section shall retain all fines and associated late fees. These revenues shall be used first to fund the provisions of subsection (j) of this section, if adopted by the Municipality or otherwise shall go into the Municipality's General Revenue Fund.

(WVaC 17C-13-6)

361.07 ABANDONED MOTOR VEHICLES.

(a) Definitions.

(1) "Abandoned motor vehicle" means any motor vehicle, or major part thereof, which is inoperative and which has been abandoned on public property for any period of time over five days, other than in an enclosed building or in a licensed salvage yard or at the business establishment of a demolisher; or any motor vehicle, or major part thereof, which has remained on private property without consent of the owner or person in control of the property for any period of time over five days; or any motor vehicle, or major part thereof, which is unattended, discarded, deserted and unlicensed and is not in an enclosed building, a licensed salvage yard or the actual possession of a demolisher: Provided, that a motor vehicle, or major part thereof, shall not be considered an abandoned motor vehicle if:

- A. The owner of the motor vehicle is storing the motor vehicle on the owner's property;
- B. The motor vehicle is being stored for the purpose of using its parts on other motor vehicles owned by the owner;
- C. The owner owns other motor vehicles similar to the motor vehicle being stored; and
- D. The owner is a business licensed to do business in the State of West Virginia and not in the primary business of offering motor vehicles or parts thereof for sale.

(2) "Enclosed building" means a structure surrounded by walls or one continuous wall and having a roof enclosing the entire structure and includes a permanent appendage thereto.

(3) "Motor vehicle" means a vehicle which is or was self-propelled, including, but not limited to, automobiles, trucks, buses and motorcycles.

(4) "Person" means a natural person, corporation, firm, partnership, association or society and the plural as well as the singular.

(WVaC 17-24A-1)

(b) Abandonment of Motor Vehicle Prohibited. No person shall, within this Municipality, abandon a motor vehicle or major part thereof upon the right-of-way of any public highway, upon any other public property or upon any private property without the consent of the owner or person in control of the property, or upon property owned or controlled by that person, unless it be at a licensed salvage yard or at the business establishment of a demolisher, or a business licensed to do business in the State of West Virginia and not in the primary business of offering motor vehicles or parts thereof for sale.

(WVaC 17-24A-2)

361.08 PARKING FOR CERTAIN PURPOSES PROHIBITED.

No person shall park any vehicle upon any street within the Municipality for the principal purpose of:

- (a) Displaying such vehicle for sale.
- (b) Displaying advertising.

- (c) Washing, greasing or repairing such vehicle, except repairs made necessary by an emergency.
- (d) Relieving the crowded condition of any parking lot, used car lot, automobile sales lot, repair garage, automobile sales agency or used car sales agency.

361.09 TRUCK LOADING ZONES.

No person shall stop, stand or park a vehicle for any purpose or length of time other than for the expeditious unloading and delivering or pickup and loading of materials in any place marked as a truck loading zone during hours when the provisions applicable to such zones are in effect. In no case shall the stop for loading and unloading of materials exceed thirty minutes.

361.10 BUS STOPS AND TAXICAB STANDS.

(a) No person shall stop, stand or park a vehicle other than a bus in a bus stop, or other than a taxicab in a taxicab stand when any such stop or stand has been officially designated and appropriately posted, except that the driver of a passenger vehicle may temporarily stop therein for the purpose of and while actually engaged in loading or unloading passengers when such stopping does not interfere with any bus or taxicab waiting to enter or about to enter such zone, and then only for a period not to exceed three minutes, if such stopping is not prohibited therein by posted signs.

(b) The operator of a bus shall not stop, stand or park such vehicle upon any street at any place for the purpose of loading or unloading passengers or their baggage other than at a bus stop so designated and posted as such, except in case of an emergency.

(c) The operator of a bus shall enter a bus stop on a public street in such a manner that the bus when stopped to load or unload passengers or baggage shall be in a position with the right front wheel of such vehicle not further than eighteen inches from the curb and the bus approximately parallel to the curb so as not to unduly impede the movement of other vehicular traffic.

(d) The operator of a taxicab shall not stand or park such vehicle upon any street at any place other than in a taxicab stand so designated and posted as such. This provision shall not prevent the operator of a taxicab from temporarily stopping in accordance with other stopping or parking provisions at any place for the purpose of and while actually engaged in the expeditious loading or unloading of passengers.

361.11 PARKING IN ALLEYS AND NARROW STREETS; EXCEPTIONS.

No person shall stop, stand or park any vehicle upon a street, other than an alley, in such a manner or under such conditions as to leave available less than ten feet of the width of the roadway for free movement of vehicular traffic, except that a driver may stop temporarily during the actual loading or unloading of passengers or when directed to by a police officer or traffic control signal.

Except as otherwise provided by law, no person shall stop, stand or park a vehicle within an alley except while actually loading and unloading, and then only for a period not to exceed thirty minutes.

361.12 REGISTERED OWNER PRIMA-FACIE LIABLE FOR UNLAWFUL PARKING.

In any hearing on a charge of illegally parking a motor vehicle, testimony that a vehicle bearing a certain license plate was found unlawfully parked as prohibited by the provisions of this Traffic Code, and further testimony that the records of the Department of Motor Vehicles shows that the license plate was issued to the defendant, shall be prima-facie evidence that the vehicle which was unlawfully parked was so parked by the defendant. A certified copy of registration from the Department of Motor Vehicles shall be proof of such ownership.

361.13 NOTICE TO OWNER.

When a police officer of the City has placed on any vehicle a notice to the owner or operator thereof that a vehicle has been in violation of any of the provisions of this article and such notice instructs such owner or operator to report to police headquarters in the Municipal building in regard to such violation, each such owner or operator may, within twenty-four hours of the time when such notice was attached to such vehicle, pay to the police officer on duty at the Municipal building, as a penalty for and in full satisfaction of such violation, that sum of money which Council by appropriate resolution and order may prescribe as the minimum fine for such violation. The minimum fine for each such violation, after so fixed by Council, shall be printed on the reverse side of the notice which the police officer places on the offending vehicle. The failure of such owner or operator to make such payment within twenty-four hours shall render such owner or operator subject to the penalties hereinafter provided for a violation of the provisions of this article. (Passed 4-2-84)

361.99 PENALTY.

(a) General Article Penalty. Whoever violates any provision of this article for which no other penalty is provided shall be fined not more than one hundred dollars (\$100.00); upon a second conviction within one year thereafter shall be fined not more than two hundred dollars (\$200.00); and upon a third or subsequent conviction, shall be fined not more than five hundred dollars (\$500.00).

(b) Abandoned and Junk Vehicles. Whoever violates Section 361.07 shall be fined not more than five hundred dollars (\$500.00) or imprisoned not more than thirty days, or both.

ARTICLE 363
Parking Meters

363.01	Marking spaces; erecting meters.	363.04	Parking within spaces.
363.02	Time limits; illegal parking.	363.05	Notice to owner or operator; payment of penalty.
363.03	Slugs; tampering.	363.99	Penalty.

CROSS REFERENCES

Authority to maintain vehicle parking facilities - see W. Va. Code
8-16-1, 8-16-2

363.01 PARKING SPACES; ERECTING METERS.

On streets where parking is limited in time, the Police Department, at the direction of Council, shall cause parking spaces, approximately twenty feet in length, to be marked by lines on the curb or pavement or by other appropriate markings and on the sidewalk adjacent to each such parking space or at such other place as Council may direct, cause to be erected a parking meter, which, upon the deposit of a coin as hereinafter provided, will indicate the duration of the legal parking period and the time when such period has elapsed. (Passed 4-2-84)

363.02 TIME LIMITS; ILLEGAL PARKING.

(a) Between the hours of 8:00 a.m. and 6:00 p.m. on every day of the week, except Sunday and legal holidays, when any vehicle shall be parked in any parking meter space, the person parking such vehicle shall immediately deposit a coin of the United States, as indicated by the legend on the parking meter adjacent to such parking meter space, in payment of the fee hereby imposed for such parking privilege; and failure to do so shall constitute a violation of this section. Such vehicle shall not be permitted to remain parked in any such parking space beyond the parking time limit fixed for such space. Whenever a parking meter shall display a sign or signal showing illegal parking of a vehicle in such parking space, it shall be prima facie evidence that such vehicle has been parked in violation of this section.

(b) No person shall cause, allow or permit any vehicle registered in his name to be parked where a parking meter has been installed, in violation of this article. (Passed 4-2-84)

363.03 SLUGS; TAMPERING.

(a) No person shall deposit or cause to be deposited in any parking meter any slug, device or metallic substitute for such required coin of the United States. No person shall injure, tamper with, open or willfully break, destroy or impair the usefulness of any parking meter installed under the terms of this article, or for any person, other than those duly authorized, to remove coins from any parking meter. Any person violating any of the foregoing provisions of this subsection, upon conviction thereof, shall be punished by a fine of not more than five hundred dollars (\$500.00) or by imprisonment in the county jail for not more than thirty days or by both such fine and imprisonment. (Passed 4-2-84)

363.04 PARKING WITHIN SPACES.

No person shall park any vehicle across any line or marking designating a parking space, or to park a vehicle in any way that it shall not be wholly within the parking space as designated by the lines or markings, and in such manner that such vehicle shall not be alongside of or next to the parking meter adjacent to such parking space. (Passed 4-2-84)

363.05 NOTICE TO OWNER OR OPERATOR; PAYMENT OF PENALTY.

When a police officer of this City has placed on any vehicle a notice to the owner or operator thereof that such vehicle has been parked in violation of a provision of this article and instructing such owner or operator to report to police headquarters in regard to such violation, each such owner or operator may, within twenty-four hours of the time when such notice was attached to such vehicle, pay to the police officer on duty at the Municipal building, as a penalty for and in full satisfaction of such violation, the sum of two dollars (\$2.00). The failure of such owner or operator to make such payment within twenty-four hours shall render such owner or operator subject to the penalties hereinafter provided for a violation of the provisions of this article. (Passed 4-2-84)

363.99 PENALTY.

(EDITOR'S NOTE: See Section 303.99 for general Code penalty.)

CHAPTER NINE - Pedestrians and Bicycles

Art. 371. Pedestrians.

Art. 373. Bicycles.

ARTICLE 371 Pedestrians

<p>371.01 Compliance with traffic regulations.</p> <p>371.02 Right of way in crosswalk.</p> <p>371.03 Crossing roadway outside crosswalk.</p> <p>371.04 Drivers to exercise due care.</p> <p>371.05 Moving upon right half of crosswalk.</p>	<p>371.06 Walking along streets and highways; soliciting rides.</p> <p>371.07 Persons working on streets and highways.</p> <p>371.08 Protection of blind pedestrians.</p> <p>371.09 Electric personal assistive mobility device.</p> <p>371.99 Penalty.</p>
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CROSS REFERENCES

See sectional histories for similar State law

Pedestrian defined - see TRAF. 301.21

Pedestrians at traffic signal - see TRAF. 313.03

Pedestrian control signal - see TRAF. 313.04

371.01 COMPLIANCE WITH TRAFFIC REGULATIONS.

Pedestrians shall be subject to traffic control signals at intersections as provided in Section 313.03, but at all other places pedestrians shall be accorded the privileges and shall be subject to the restrictions stated in this article.

(WVaC 17C-10-1(a))

371.02 RIGHT OF WAY IN CROSSWALK.

(a) When traffic control signals are not in place or not in operation the driver of a vehicle shall yield the right of way, slowing down or stopping if need be to so yield, to a pedestrian crossing the roadway within a crosswalk when the pedestrian is upon the half of the roadway upon which the vehicle is traveling, or when the pedestrian is approaching so closely from the opposite half of the roadway as to be in danger, but no pedestrian shall suddenly leave a curb or other place of safety and walk or run into the path of a vehicle which is so close that it is

impossible for the driver to yield. This provision shall not apply under the conditions stated in Section 371.03(b).

(b) Whenever any vehicle is stopped at a marked crosswalk or at any unmarked crosswalk at an intersection to permit a pedestrian to cross the roadway, the driver of any other vehicle approaching from the rear shall not overtake and pass such stopped vehicle.
(WVaC 17C-10-2)

371.03 CROSSING ROADWAY OUTSIDE CROSSWALK.

(a) Every pedestrian crossing a roadway at any point other than within a marked crosswalk or within an unmarked crosswalk at an intersection shall yield the right of way to all vehicles upon the roadway.

(b) Any pedestrian crossing a roadway at a point where a pedestrian tunnel or overhead pedestrian crossing has been provided shall yield the right of way to all vehicles upon the roadway.

(c) Between adjacent intersections at which traffic control signals are in operation pedestrians shall not cross at any place except in a marked crosswalk.
(WVaC 17C-10-3)

371.04 DRIVERS TO EXERCISE DUE CARE.

Notwithstanding any other provision 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.
(WVaC 17C-10-4)

371.05 MOVING UPON RIGHT HALF OF CROSSWALK.

Pedestrians shall move, whenever practicable, upon the right half of crosswalks.
(WVaC 17C-10-5)

371.06 WALKING ALONG STREETS AND HIGHWAYS; SOLICITING RIDES.

(a) Where sidewalks are provided, no pedestrian shall walk along and upon an adjacent roadway.

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

(c) No person shall stand in a roadway for the purpose of soliciting a ride from the driver of any vehicle.
(WVaC 17C-10-6)

371.07 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.

(WVaC 17C-10-8)

371.08 PROTECTION OF BLIND PEDESTRIANS.

The driver of a vehicle approaching a blind pedestrian who knows, or in the exercise of reasonable care should know, that such pedestrian is blind because such pedestrian is carrying a cane predominantly white or metallic in color with or without a red tip, or is using a guide dog or otherwise, shall exercise care commensurate with the situation to avoid injuring such pedestrian.

(WVaC 5-15-5)

371.09 ELECTRIC PERSONAL ASSISTIVE MOBILITY DEVICE.

(a) For purposes of this section, the definition of an “electric personal assistive mobility device” is the same definition as previously set forth in Section 303.081 and “operator” shall refer to the operator of an electric personal assistive mobility device.

(WVaC 17C-10A-1)

- (b) An electric personal assistive mobility device shall be equipped with:
- (1) Front, rear and side reflectors;
 - (2) A braking system that enables the operator to bring the device to a controlled stop; and
 - (3) If operated at any time from one-half hour after sunset to one-half hour before sunrise, a lamp that emits a white light that sufficiently illuminates the area in front of the device.

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

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

(WVaC 17C-10A-2)

371.99 PENALTY.

(a) Whoever violates any provision of this article, for which no other penalty is provided, shall be fined not more than one hundred dollars (\$100.00); upon a second conviction within one year thereafter shall be fined not more than two hundred dollars (\$200.00); and upon a third or subsequent conviction, shall be fined not more than five hundred dollars (\$500.00).

(WVaC 17C-10-7)

(b) An operator who violates a provision of Section 371.09 shall receive a warning for the first offense. For a second or subsequent offense, the operator shall be punished by a fine of not less than ten dollars (\$10.00) and not greater than one hundred dollars (\$100.00).

(WVaC 17C-10A-2)

ARTICLE 373
Bicycles

373.01 Compliance; code application to bicycles. 373.02 Obedience to traffic rules; exceptions. 373.03 Riding upon seats; number of persons. 373.04 Attaching bicycle or sled to vehicle. 373.05 Riding on roadways and bicycle paths.	373.06 Carrying articles. 373.07 Lights and reflector on bicycle; signal device; brakes. 373.08 Reckless operation; control, course and speed. 373.09 Bicycle helmets for children. 373.99 Penalty.
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CROSS REFERENCES

See sectional histories for similar State law
 Authority to regulate bicycle operation - see W. Va.
 Code 17C-2-8(a)(8)
 Bicycle defined - see TRAF. 301.03
 Moped equipment and operation - see TRAF. 345.29

373.01 COMPLIANCE; CODE APPLICATION TO BICYCLES.

(a) No person shall do any act forbidden or fail to perform any act required in this article.

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

(c) These regulations applicable to bicycles shall apply whenever a bicycle is operated upon any street or highway or upon any path set aside for the exclusive use of bicycles subject to those exceptions stated herein.
 (WVaC 17C-11-1)

373.02 OBEDIENCE TO TRAFFIC RULES; EXCEPTIONS.

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 Traffic Code, except as to special regulations in this article and except as to those provisions of this Traffic Code which by their nature can have no application.
 (WVaC 17C-11-2)

373.03 RIDING UPON SEATS; NUMBER OF PERSONS.

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

(b) No bicycle shall be used to carry more persons at one time than the number for which it is designed and equipped.
(WVaC 17C-11-3)

373.04 ATTACHING BICYCLE OR SLED TO VEHICLE.

No person riding upon any bicycle, coaster, skateboard, roller skates, sled or toy vehicle shall attach the same or himself to any vehicle upon a roadway.
(WVaC 17C-11-4)

373.05 RIDING ON ROADWAYS AND BICYCLE PATHS.

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

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

(c) Whenever a usable path for bicycles has been provided adjacent to a roadway, bicycle riders shall use such path and shall not use the roadway.
(WVaC 17C-11-5)

373.06 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.
(WVaC 17C-11-6)

**373.07 LIGHTS AND REFLECTOR ON BICYCLE; SIGNAL DEVICE;
BRAKES.**

(a) Every bicycle when in use at nighttime shall be equipped with a lamp on the front which shall emit a white light visible from a distance of at least 500 feet to the front and with a red reflector on the rear of a type approved by the Department of Motor Vehicles which shall be visible from all distances from fifty feet to 300 feet to the rear when directly in front of lawful upper beams of head lamps on a motor vehicle. A lamp emitting a red light visible from a distance of 500 feet to the rear may be used in addition to the red reflector.

(b) No person shall operate a bicycle unless it is equipped with a bell or other device capable of giving a signal audible for a distance of at least 100 feet, except that a bicycle shall not be equipped with nor shall any person use upon a bicycle any siren or whistle.

(c) Every bicycle shall be equipped with a brake which will enable the operator to make the braked wheels skid on dry, level, clean pavement.
(WVaC 17C-11-7)

373.08 RECKLESS OPERATION; CONTROL, COURSE AND SPEED.

No person shall operate a bicycle:

- (a) Without due regard for the safety and rights of pedestrians and drivers and occupants of all other vehicles, and so as to endanger the life, limb or property of any person while in the lawful use of the streets or sidewalks or any other public or private property;
- (b) Without exercising reasonable and ordinary control over such bicycle;
- (c) In a weaving or zigzag course unless such irregular course is necessary for safe operation in compliance with law;
- (d) Without both hands upon the handle grips except when necessary to give the required hand and arm signals, or as provided in Section 373.06;
- (e) At a speed greater than is reasonable and prudent under the conditions then existing.

373.09 BICYCLE HELMETS FOR CHILDREN.

(a) Definitions. As used in this section:

- (1) "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.
- (2) "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.
- (3) "Public roadway" means a right of way under the jurisdiction and control of this State or the Municipality for use primarily by motor vehicles.
- (4) "Public bicycle path" means a right of way under the jurisdiction and control of this State or the Municipality for use primarily by bicycles and pedestrians.
- (5) "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 the Municipality and is designed for use and used by vehicular or pedestrian traffic.
- (6) "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.
- (7) "Passenger" means any person who travels on a bicycle in any manner except as an operator.
- (8) "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.
(WVaC 17-11A-3)

(b) Requirements for Helmet Use.

- (1) 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.
- (2) 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.
(WVaC 17C-11A-4)

(c) 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 (a)(6) hereof, which shall constitute the manufacturer's certification that the helmet conforms to the applicable safety standards. (WVaC 17C-11A-5)

(d) Civil Actions. A violation of subsection (b) hereof is not admissible as evidence of negligence or contributory negligence or comparative negligence in any civil action or proceeding for damages, and shall not be admissible in mitigation of damages.
(WVaC 17C-11A-6)

373.99 PENALTY.

(EDITOR'S NOTE: See Section 303.99 for general Traffic Code penalty.)

- (a) Notwithstanding the provisions of Section 303.99, any parent or legal guardian violating any requirement set forth in Section 373.09(b) shall be fined ten dollars (\$10.00) or be required to perform two hours in community service related to a child injury prevention program which includes injury prevention education or both fined and required to perform such community service. Notwithstanding the provisions of West Virginia Code 8-11-1, no court costs may be assessed to any person violating the requirements of Section 373.09(b).
- (b) In the case of a first violation of Section 373.09(b), the court may waive the fine upon receipt of satisfactory proof that the person has a helmet or within a reasonable time from the date of the violation, purchased or otherwise obtained, a protective bicycle helmet.
- (c) It is an absolute defense to a charge for a violation of Section 373.09 that a parent or legal guardian is unable to pay for the protective bicycle helmet. Inability to pay may be demonstrated by the filing of a financial affidavit in accordance with the provisions of West Virginia Code 59-2-1(c). Any person who demonstrates inability to pay shall be referred to the Governor's highway safety program for assistance in obtaining the appropriate helmet or helmets.
(WVaC 17C-11A-7)

1996

West Virginia Traffic and General Offenses Codes Amendments

- 333.01 Driving Under the Influence (Amended).
- 343.03 Stopping at Grade Crossings (Amended).
- 345.11 Cowl, Fender and Backup Lights (Amended).
- 345.29 Safety Equipment for Motorcycles and Mopeds (Amended).
- 361.03 Prohibited Stopping, Standing or Parking Places (Amended).
- 361.06 Handicapped Parking (Amended).
- 373.09 Bicycle Helmets for Children Required (Added).

1997

- 337.09 Driving in Marked Lanes (Amended).
- 501.02 Obstructing Officer; Fleeing From Officer (Amended).
- 501.99 Penalty (Amended).
- 521.09 Acts Prohibited by Private Club Licensee (Amended).

1998

- 331.03 Duty to Give Information and Render Aid (Amended).
- 331.05 Collision With Fixtures Upon a Street or Highway (Amended).
- 331.06 Immediate Report of Accidents (Amended).
- 331.07 When Driver Unable to Report (Amended).
- 331.08 Garages to Report Bullet Damage (Amended).
- 345.11 Cowl, Fender and Back-Up Lights (Amended).
- 361.03 Prohibited Stopping, Standing or Parking Places (Amended).
- 361.06 Handicapped Parking (Amended).
- 525.03 Parental Liability for Acts of Children (Amended).
- 525.05 Tobacco Usage Restrictions (Added).
- 533.09 Unauthorized Use of Dumpsters (Added).

1999

West Virginia Traffic and General Offenses Codes Amendments

- 301.201 Passenger Van Defined. (Added)
- 313.04 Pedestrian Control Signals. (Amended)
- 313.99 Penalty. (Amended)
- 331.01 Accidents Involving Death or Personal Injuries. (Amended)
- 331.06 Immediate Reports of Accidents. (Amended)
- 331.99 Penalty. (Amended)
- 335.01 Maximum Speed Limits. (Amended)
- 335.99 Penalty. (Amended)
- 337.03 Overtaking, Passing to Left; Driver's Duties. (Amended)
- 337.99 Penalty. (Amended)
- 339.99 Penalty. (Amended)
- 341.99 Penalty. (Amended)
- 343.08 Stopping for Passenger Van; Signs and Warning Lights. (Added)
- 343.09 Obstructing Intersection or Crosswalk. (Amended)
- 343.99 Penalty. (Amended)
- 345.18 Special Restrictions on Lights. (Amended)
- 345.34 Sun Screening Devices. (Amended)
- 345.99 Penalty. (Amended)
- 349.03 Drivers' View and Control to be Unobstructed by Load or Persons. (Amended)
- 349.04 Passengers in Seat with Operator. (Amended)
- 349.08 Funeral Processions. (Amended)
- 349.13 Taking, Injuring or Tampering with Vehicle. (Amended)
- 349.99 Penalty. (Amended)
- 351.04 Operation of Vehicle Without Evidence of Registration; Use of Temporary Facsimile. (Amended)
- 351.99 Penalty. (Amended)
- 353.01 Commercial Drivers Definitions. (Amended)
- 353.04 Commercial Driver's License Required. (Amended)
- 353.06 Drivers Prohibited From Operating With Any Alcohol in System. (Amended)
- 361.04 Vehicles Parked on Private Property. (Amended)
- 361.99 Penalty. (Amended)
- 371.99 Penalty. (Amended)
- 501.04 False Reports Concerning Bombs or Other Explosive Devices. (Amended)
- 521.99 Penalty. (Amended)
- 529.02 Assault and Battery on School Employees. (Amended)

2000

West Virginia Traffic and General Offenses Codes Amendments

- 351.07 Persons Exempt From License. (Amended)
- 361.03 Prohibited Stopping, Standing and Parking Places. (Amended)
- 501.02 Obstructing Officer; Fleeing. (Amended)
- 525.05 Tobacco Usage Restrictions. (Amended)
- 541.01 Obstructing Railroad Crossings. (Amended)
- 541.99 Penalty. (Amended)

2001

West Virginia Traffic and General Offenses Codes Amendments

- 301.201 Passenger Van Defined. (Amended)
- 333.01 Driving Under the Influence. (Amended)
- 349.21 Littering From a Motor Vehicle. (Added)
- 361.07 Abandoned Motor Vehicles. (Amended)
- 501.02 Obstructing or Giving False Information to an Officer; Fleeing. (Amended)
- 501.99 Penalty. (Amended)
- 529.04 Breathing, Inhaling or Drinking Certain Intoxicating Compounds. (Added)
- 545.04 Persons Prohibited From Possession of Firearms. (Amended)
- 545.99 Penalty. (Amended)

2002

West Virginia Traffic and General Offenses Codes Amendments

- 301.081 Electric Personal Assistive Mobility Device Defined. (Added)
- 301.17 Motor Vehicle Defined. (Amended)
- 301.21 Pedestrian Defined. (Amended)
- 301.47 Vehicle Defined. (Amended)
- 301.48 Wheelchair Defined. (Added)
- 303.03 Obedience to Police Officers. (Amended)
- 343.03 Stopping at Grade Crossing. (Amended)
- 349.061 Approaching Authorized Emergency Vehicles. (Added)
- 349.99 Penalty. (Amended)
- 361.06 Accessible Parking. (Amended)
- 371.09 Electric Personal Assistive Mobility Device. (Added)
- 371.99 Penalty. (Amended)

- 509.01 Disorderly Conduct. (Amended)
- 545.01 Weapons Definitions. (Amended)
- 545.03 Exceptions Against Carrying Concealed Weapons. (Amended)

2003

- 341.99 Right-of-Way Penalty. (Amended)
- 345.09 Spotlights and Auxiliary Lights. (Amended)
- 345.31 Child Passenger Safety Devices Required. (Amended)
- 347.02 Projecting Loads on Passenger Vehicles. (Amended)
- 347.03 Maximum Width, Height and Length. (Amended)
- 501.99 False Fire Alarm Penalty. (Amended)
- 505.99 Cruelty to Animals Penalty. (Amended)
- 521.11 Acts Prohibited by Wine Dealers. (Amended)

2004

- 333.01 Driving Under The Influence. (Amended)
- 345.34 Sunscreening Devices. (Amended)
- 351.03 Display of Registration Plates. (Amended)
- 351.99 Penalty. (Amended)
- Art. 355 All-Terrain Vehicles. (Added)

2005

West Virginia Traffic and General Offenses Codes Amendments

- 333.01 Driving Under the Influence. (Amended)
- 345.31 Child Passenger Safety Devices. (Amended)
- 353.01 Commercial Drivers' Definitions. (Amended)
- 353.03 Employer Responsibilities. (Amended)
- 353.05 Commercial Drivers' Exemptions. (Amended)
- 353.06 Commercial Drivers Prohibited From Operating With
Any Alcohol in System. (Amended)
- 505.01 Cruelty to Animals. (Amended)
- 505.99 Penalty for Cruelty to Animals. (Amended)
- 533.01 Shoplifting. (Amended)