

THE CODE OF THE TOWN
OF
HAMLIN, WEST VIRGINIA

The General Ordinances of the City

PUBLISHED BY ORDER OF THE COMMON
COUNCIL OF THE CITY

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THE CODE

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THE CODE

CHAPTER 1.

General Provisions

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Section 1-1 How Code designated and cited.

The ordinances embraced in this and the following chapters and sections shall constitute and be designated "The Code of the Town of Hamlin, West Virginia", and may be so cited.

Section 1-2 Definitions and rules of construction.

In the construction of this Code and of all ordinances, the following definitions and rules of construction shall be observed, unless inconsistent with the manifest intent of the council or unless the context clearly requires otherwise:

CHARTER The words "the Charter" shall mean the Charter of the Town of Hamlin, as amended.

CITY The words "the Town" or "this Town" shall mean the Town of Hamlin, in the County of Lincoln and State of West Virginia, except as otherwise provided.

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

COUNCIL; CITY COUNCIL; COMMON COUNCIL The words "the council" or the terms "city council" or "common council" shall mean "the council of the Town of Hamlin, West Virginia".

COUNTY The words "the county" or "this county" shall mean the County of Lincoln, in the State of West Virginia, except as otherwise provided.

GENDER A word importing the masculine gender only shall extend and be applied to females and to firms, partnerships and corporations as well as to males.

LAND "Land" and "real estate" includes rights and easements of incorporeal nature.

MONTH The word "month" shall mean calendar month.

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

OATH The word "oath" shall be construed to include an affirmation in all cases in which, by law, an affirmation may be substituted for an oath, and in such cases the words "swear" and "sworn" shall be equivalent to the words "affirm" and "affirmed".

OR, AND "Or" may be read "and", and "and" may be read "or", if the sense requires it.

OWNER The word "owner", applied to any building or land, shall include any part owner, joint owner, tenant in common, joint tenant or tenant by the entirety, of the whole or part of such building or land.

PERSON The word "person" shall extend and be applied to firms, partnerships, associations, bodies politic and corporate, or any other group acting as a unit, as well as to individuals.

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

PRECEDING; FOLLOWING The words "preceding" and "following" mean next before and next after, respectively.

PROPERTY The word "property" shall include real, personal and mixed property, estates and interest.

REAL PROPERTY Shall include lands, tenements and hereditaments.

SHALL The word "shall" is mandatory and not merely directory.

SIDEWALK The word "sidewalk" shall mean any portion of a street between the curb line, or the lateral lines of a roadway where there is no curb, and the adjacent property line, intended for the use of pedestrians.

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

STATE The words "the state" or "this state" shall mean the State of West Virginia.

STREET The word "street" shall include avenues, boulevards, highways, roads, alleys, lanes, viaducts, bridges and the approaches thereto and all other public thoroughfares in the city, and shall mean the entire width thereof between abutting property lines; it shall be construed to include a side walk or footpath, unless the contrary is expressed or unless such construction would be inconsistent with the manifest intent of the council.

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

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

WRITTEN, IN WRITING "Written" or "in writing" shall be construed to include any representation of words, letters or figures, whether by printing or otherwise.

YEAR The word "year" shall mean a calendar year, and the "year" alone shall be equivalent to the expression "year of our Lord".

Section 1-3 Provisions considered as continuations of existing ordinances

The provisions appearing in the Code, so far as they are in substance the same as those of all ordinances included herein, shall be considered as continuations thereof and not as new enactments.

Section 1-3.1 Procedure for passing ordinances

- (1) An ordinance shall be read at not less than two meetings with at least one week intervening between each meeting.
- (2) An ordinance shall not be materially amended at the same meeting at which finally passed.
- (3) Council may enact an ordinance under suspension of the rules described by this section only in the case of a pressing emergency making a procedure in accordance with this section dangerous to the public, health, safety or morals and by the affirmative vote of two-thirds of all the members of the council, the nature of such emergency shall be set out in full in the ordinance.

Section 1-4 Effect of repeal or expiration of ordinance

The repeal of an ordinance, or its expiration by virtue of any provision contained therein, shall not affect any offense committed, or penalty or punishment incurred, before the repeal took effect, or the ordinance expired, save only that the proceedings thereafter had shall conform as far as practicable to the ordinances in force at the time such proceedings take place, unless otherwise expressly provided.

Section 1-5 Catchiness of sections

The catchiness of the several sections of this Code printed in boldface type are intended as mere catchwords to indicate the contents of the section and shall not be deemed or taken to be titles of such section, nor as any part of the section, nor, unless so provided, shall they be so deemed when any of such sections, including the catchiness, are amended or re-enacted.

Section 1-6 Severability of parts of Code.

It is hereby declared to be the intention of the council that the sections, paragraphs, sentences, clauses and phrases of this Code are severable, and if any phrase, clause, sentence, paragraph or section of this Code shall be declared unconstitutional or invalid by the valid judgment or decree of any court of competent jurisdiction, such unconstitutionality or invalidity shall not affect any of the remaining phrases, clauses, sentences, paragraphs and sections of this Code, since the same would have been enacted by the council without the incorporation in this Code of any unconstitutional or invalid phrase, clause, sentence paragraph or section.

Section 1-7 General penalty, continuing violations

Wherever in this Code or in any ordinance or resolution of the city, or rule or regulation or order promulgated by any officer or agency of the city under authority duly vested in him or it, any act is prohibited or is declared to be unlawful or an offense or a misdemeanor, and no specific penalty is provided or the failure to do any act is declared to be unlawful or an offense or a misdemeanor, and no specific penalty is provided for the violation thereof, the violation of any such provision of this Code or any such ordinance, resolution, rule, regulation or order shall be punished by a fine not exceeding five hundred dollars or by imprisonment in jail not exceeding six months, or by both such fine and imprisonment. Each day any violation of this Code or any such ordinance, resolution, rule, regulation or order shall continue shall constitute, except where otherwise provided, a separate offense.

Section 1-8 Limitation on penalties

Notwithstanding the provisions of Section 1-7, no penalty imposed for any violation of this Code or other ordinance or resolution of the city shall be greater than the penalty that may be imposed consequent upon the violation of a similar provision of the Code of West Virginia, as amended.

Section 1-9 Court costs and fees

The fees and costs imposed in and by the city police court in cases involving violations of this Code and other ordinances of the city shall be the same as those prescribed by state law for criminal cases tried by justices of the peace.

Section 1-10 Persons authorized to issue warrants for offenses

The police, judge, mayor, city clerk and chief of police or in the absence of the chief of police, the lieutenant of police, shall each have authority to issue warrants for offenses committed within the police jurisdiction of the city.

Section 1-11 Official city time

Whenever any time or hour of the day is mentioned in any chapter of this Code, or in any ordinance of the city hereafter adopted, the time or hour shall be construed to mean Eastern Standard Time, or Daylight Savings time if then in use in the city, and the Eastern Standard Time or Daylight Savings Time if then in use in the city, is hereby adopted as the official standard time of the city.

Section 1-12 Official copy of Code to be kept by city clerk

One copy of this Code shall be certified by the city clerk as correct and official and shall be placed and kept permanently on file in the office of the city clerk. It shall be unlawful for any person to remove such copy of the Code from the office of the city clerk. Any person violating this section shall be guilty of a misdemeanor.

Section 1-13 Copy of Code to be kept at police headquarters

One copy of this Code shall be kept permanently on file for reference at the police headquarters. It shall be unlawful for any person to remove such copy of the Code from the police headquarters. Any person violating this section shall be guilty of a misdemeanor.

Section 1-14 Sale of Code

The city clerk is hereby authorized to sell any copies of this Code, not needed for the use of the city officers, at such price as may be fixed by resolution of the council.

ADMINISTRATION

CHAPTER 2

ADMINISTRATION

Article I. In General

- 2-1 Effect of continued absence of members of boards, etc., from meetings thereof.
- 2-2 City clerk's office to be closed on Friday preceding legal holiday on Saturday.

Article II. Common Council

- 2-3 Meetings - Regular
- 2-4 Meetings - Special
- 2-5 Meetings - Notice
- 2-6 Meetings - Members not to withdraw
- 2-7 Quorum
- 2-8 Conduct of members
- 2-9 Recognition of members
- 2-10 Limitation on number and length of speeches
- 2-11 Calling members to order
- 2-12 Nonmembers addressing council
- 2-13 Robert's Rules of Order

Article III. Police Department

- 2-14 Composition

Article I. IN GENERAL

Section 2-1 Effect of continued absence of members of boards, etc., from meetings Thereof

Any member of a committee, board or commission who is absent from three consecutive meetings of such committee, board or commission, unless such absence is due to an injury or illness, may be replaced by the appointment of another member to such committee, board or commission and notice of such appointment shall be given in writing to the chairman of such committee, board or commission.

Section 2-2 City clerk's office to be closed on Friday preceding a legal holiday which falls on Saturday

The city clerk's office shall be closed on Friday preceding a legal holiday that falls on Saturday.

ARTICLE II. COMMON COUNCIL

Section 2-3 Meetings - Regular

Regular meetings of the common council shall be held on the first Monday of each month at 7:00 P.M., Eastern Standard Time or Daylight Savings Time, whichever is in effect, if not a legal holiday, and if a legal holiday, on the next succeeding business day which is not a legal holiday.

Section 2-4 Meetings - Special

Special meetings of the council may be called by the mayor or by a majority of the elected members of the council.

Section 2-5 Meetings - Notice

No notice shall be required of the regular meetings of the council.

Notice of special meetings of the council shall be given by the clerk by mailing a written notice to each member and the mayor at least three days before the time of the meeting in the United States mail addressed to the last known address of each. Notice of such meeting shall state the day, time and place of such special meeting.

Notice of special meeting of the council may be dispensed with if a majority of the members of the council attend in person and vote affirmatively to waive the giving of the written notice as above provided, which waiver shall be binding on all members, present or absent.

Section 2-6 Meetings -- Members not to withdraw

After a member of council has been recorded as present at any meeting, he shall not, without permission of the chair, absent himself from such meeting until adjournment.

Section 2-7 Quorum

A majority of the council elected shall be necessary to constitute a quorum for the transaction of business. If at any meeting of the council there shall be less than a quorum present, any councilman may adjourn such meeting from time to time and place to place until a quorum is present.

Section 2-8 Conduct of members

Every member of the council shall confine himself to the question before the council and avoid personal or indecorous language. No member shall interrupt another while speaking, except to make a point of order, the point to be briefly stated to the presiding officer. No member shall, while the council is sitting, interrupt or hinder its business by standing, moving about, talking, expressing approval or disapproval of any of the proceedings or by any conduct tending to disorder or confusion.

Section 2-9 Recognition of members

When two members of the council request recognition at the same time, the presiding officer shall name the one to speak. In all cases, the member of council first requesting recognition shall speak first.

Section 2-10 Limitation on number and length of speeches

No member of the council shall speak more than once on the same question until every member choosing to speak shall have done so, nor more than twice, nor for a longer time than fifteen minutes on any question, without permission of the council.

Section 2-11 Calling members to order

If in speaking, any member of the council transgress the rules of the council, the presiding officer shall call him to order. If there is no appeal, the decision of the chair shall be submitted to. If the decision of the chair is in favor of the member called to order, he may proceed; if otherwise, he shall not proceed, except by leave of council.

Section 2-12 Nonmembers addressing council

No person who is not a member of the council shall orally address it, until leave to do so has been applied for, through a member of council, and granted by it, or until invited to do so by the presiding officer. The presiding officer shall request of the person desiring to speak his name, address and the subject discussed.

Section 2-13 Robert's Rules of Order

Rules of procedure not covered by this article shall be in accordance with Robert's Rule of Order.

ARTICLE III POLICE DEPARTMENT

Section 2-14 Composition

The police department of the city shall consist of a chief, captains, lieutenants, sergeants, patrolmen and probationary patrolmen. The mayor shall act as chief of police. All other members shall be appointed by the town council.

CHAPTER 3.

ANIMALS AND FOWL

ARTICLE I. IN GENERAL

- 3-1 Keeping cattle or swine
- 3-2 Noisy cats
- 3-3 Slaughterhouses
- 3-4 Birds - Town designated bird sanctuary
- 3-5 Birds - Hunting, shooting, etc., birds, etc.
- 3-6 Cruelty to animals
- 3-7 Keeping Fowl near inhabited building or permitting them to run large
- 3-8 Keeping noisy fowl
- 3-9 Maintenance of pens, coops, etc.

ARTICLE II. DOGS

- 3-10 Definition
- 3-11 Inducing, etc., dogs to fight or bark at, frighten, etc., persons, etc.
- 3-12 Vicious dogs
- 3-13 Noisy dogs
- 3-14 Muzzling dogs under proclamation of mayor.
- 3-15 Impoundment of dog which has bitten person
- 3-16 Dogs are not permitted to run at large
- 3-17 Removal of dogs from public gatherings
- 3-18 Penalties for violation of provisions of this Chapter

ARTICLE I. IN GENERAL

Section 3-1 Keeping cattle or swine

It shall be unlawful for any person to keep any cattle, swine or any animal kept or contained, which shall produce an obnoxious odor or be a nuisance.

Section 3-2 Noisy cats

No person shall own or keep within the city any cat which shall, by squalling, crying or in any other manner whatsoever, disturb the comfort or quiet of any neighborhood.

Section 3-3 Slaughterhouses

It shall be unlawful for anyone to erect or use for a slaughterhouse in the city any building, shed or any place whether in a building or out of a building for the purpose of killing animals to be sold to the public. This section shall not apply to anyone killing an animal for his own household.

Section 3-4 Birds – Town designated bird sanctuary (as amended January 7, 2002)

The entire area embraced within the city is hereby designated as a bird sanctuary.

Section 3-5 Birds – Hunting, shooting, etc., birds, etc.

It shall be unlawful to trap, hunt, shoot or attempt to shoot or molest in any manner any bird or wild fowl or to rob birds nests or wild fowl nests, provided, however, that if starlings or similar birds are found to be congregating in such numbers in a particular locality that they constitute a nuisance or menace to health or property in the opinion of the proper health authorities of the city, then such health authorities shall meet with representatives of the garden council, after having given a least three days actual notice of the time and place of such meeting no satisfactory alternative is found to abate such nuisance, then such birds may be destroyed in such numbers and in such manner as is deemed advisable by such health authorities under the supervision of the chief of police.

Section 3-6 Cruelty to animals

If any person within the city shall cruelly, unnecessarily or needlessly beat, torture, mutilate or kill or willfully overload, overdrive or deprive of necessary food, shelter or water any horse or other domestic animal or cause the same to be done by another, whether such horse or other animal shall be the property of such person or that of another person, such person upon conviction shall be punished as provided by Section 1-7.

Section 3-7 Keeping fowl near inhabited building or permitting them to run at large

No person shall keep any kind of poultry, fowl, or pigeon within twenty-five feet of any structure owned by another and used for human habitation, occupation or assembly, whether the structure be in the same or adjacent block or square; nor shall any fowl, poultry or pigeon be permitted by the owner thereof to run, fly, stray or otherwise be at large in the street of the Town or in any lot or premises not in the possession or under control of the owner of such poultry, fowl, or pigeon. (As adopted and amended January 7, 2002)

Section 3-8 Keeping noisy fowl.

No person shall own or keep within the Town, any fowl, poultry, pigeon, or bird which shall, by crowing, cackling, or other audible sound, or in any manner whatsoever, disturb the quiet of any neighborhood. (As adopted and amended January 7, 2002)

Section 3-9 Maintenance of pens, coops, etc.

Each stable, pen, coop, and other enclosure where any animal or fowl is kept shall be so located and of such construction as to have sufficient sanitary drainage to keep it dry at all times; and it shall be the duty of each person owning, harboring or keeping any animal or fowl to maintain such enclosure or other place where such animal is kept in a clean and sanitary condition at all times, free of any unwholesome or offensive substance, liquid or odor and so as not to constitute, in the opinion of the health commissioner, a nuisance. (As adopted and amended January 7, 2002)

ARTICLE II DOGS

Section 3-10 Definition

The term "dog" shall mean and include all members of the canine family, of either sex and at least six months of age, unless otherwise specified in this article.

Section 3-11 Inducing, etc., dogs to fight to bark at, frighten, etc., persons etc.

No person shall entice, induce, urge or cause any dogs to engage in or prolong a fight in the city, and no person shall induce or cause any dog to run after, bark at, frighten or bite any person or animal lawfully passing along or standing in or on any street or highway in the city.

Section 3-12 Vicious dogs

No person shall own, keep or harbor any dog, known by him to be vicious, dangerous or in the habit of biting or attacking persons, whether or not such dog wears a tag or muzzle, and, upon satisfactory proof that such dog is vicious, dangerous or in the habit of biting or attacking persons, the chief of police or any other police officer may cause such dog to be impounded and disposed of in the manner provided by this article.

Section 3-13 Noisy dogs

No person shall own or keep within the city any dog which shall, by barking, howling, squalling, crying or in any other manner whatsoever, disturb the comfort or quiet of any neighborhood.

Section 3-14 Muzzling dogs under proclamation of mayor.

Whenever it shall appear to the mayor that there are good reasons for believing that any dog within the city is rabid, he may issue a proclamation requiring that all dogs shall, for a period to be defined in the proclamation, wear good, substantial muzzles, securely put on, so as to prevent them from biting or snapping.

Section 3-15 Impoundment of dog which has bitten person

Any dog, whether licensed or not, that has bitten any person shall be seized by any police officer and impounded for a period of twenty one days for observation to determine whether such dog is rabid. The police chief is authorized to secure the services of any registered professional veterinarian, doctor or qualified laboratory to determine whether or not such dog has rabies. In the event that it should be ascertained that the dog has rabies, then the police chief is authorized to cause such dog to be disposed of. The owner of such dog shall be required to pay the expense of maintaining such dog for such period of time at the rate of fifty cents per day and, in addition thereto, such reasonable fee or charge as may be

made to ascertain whether or not the dog had rabies. In the event the impounded dog is found to be free of rabies, such dog shall be returned to the owner upon payment of the fees herein provided.

Section 3-16 Dogs are not permitted to run at large

The owner of a dog or a person harboring or keeping a dog shall not allow such dog to roam at large in the Town. The owner of a dog or a person harboring or keeping a dog shall confine such dog at the owner's premises or at the premises of such person harboring or keeping such dog. No person shall take any dog onto the streets, sidewalks, or public places in the Town unless the dog shall be upon a leash and/or under effective control. (As adopted and amended January 7, 2002)

Section 3-17 Removal of dogs from public gatherings

No person shall keep any dog at a public gathering after any humane officer or other officer of the law has determined that the presence or conduct of the dog may jeopardize the health, safety, or welfare of any person attending the gathering. Any such dog shall be promptly removed from such public place its owner or keeper upon oral notification by the officer. (As adopted and amended January 7, 2002)

Section 3-18 Penalties for violation of provisions of this Chapter.

Whoever shall violate any provision of this chapter shall, upon conviction, be fined \$100.00 for the first violation. Upon conviction for a second or subsequent violation, any such person shall be fined from \$100.00 up to \$500.00, and, in addition to such fine, may be imprisoned up to thirty days. (As adopted and amended January 7, 2002)

CHAPTER 4

BUILDINGS

Article I. In General

4-1 Issuance of building permit for structures violating covenant, etc., in deed.

Article II. Moving of Buildings

4-2 Definitions

4-3 Permit required, etc.

4-4 Bond and insurance required of mover

4-5 Deposit against damage to streets, etc.

4-6 Deposit guaranteeing placement upon proper foundation, etc.

4-7 Restoration of old site

4-8 Moving more than one structure

4-9 Construction of moving permit

4-10 Additional conditions may be imposed

4-11 Penalty for failure to obtain permit

Article I. In General

Section 4-1 Issuance of building permit for structure violating covenant, etc., in deed.

No building permit shall be issued for the erection or construction of any building or structure of any kind whatsoever where the contemplated building or structure violates any covenant, condition, restriction or reservation contained in any deed or conveyance to the real estate upon which such proposed structure or building is to be built.

Article II. Moving of Buildings

Section 4-2 Definitions

As used in this article the words "building" or "structure" shall be construed to include any building or structure, regardless of its composition, present or intended use the horizontal or vertical dimension of which were greater than ten feet.

Section 4-3 Permit required, etc.

No person shall move any building or structure over or upon the streets, alleys or sidewalks of the city without applying for and obtaining a house moving permit from the house and grounds committee of the city, which permit shall also be approved by the common council.

Section 4-4 Bond and insurance required of mover

The mover of any building or structure under the provisions of this article shall be bonded for the sum of ten thousand dollars for each building or structure that he desires to move, which bond shall be given by surety company authorized to do business in the state and be conditioned according to law and to provide for the safe and proper moving of the building or structure in question. In addition to giving the above mentioned surety bond, the mover shall also deliver to the clerk a liability insurance policy for the sum of at least ten thousand dollars upon the vehicle or vehicles to be used in the moving of such building or structure, which insurance policy shall be returned to the mover upon request after such building or structure has been moved and inspected, and approve by the city building inspector.

Section 4-5 Deposit against damage to streets, etc.

The mover of any building or structure under the provisions of this article shall deposit with the city clerk a certified check in the amount of one thousand dollars, the proceeds from which are to be used to pay any damage to the streets, alleys or

sidewalks of the city caused by such mover or resulting from the moving of such building or structure.

Section 4-6 Deposit guaranteeing placement upon proper foundation, etc.

The mover of any building or structure under the provisions of this article shall deposit with the city clerk a certified check in the amount of one thousand dollars, as a guarantee that the building or structure in question will be placed upon a proper foundation the utilities there to properly connected, and the premises put in as good a condition as the surrounding property within sixty days following the placement of such building or structure upon its new location.

Section 4-7 Restoration of old site

In the event that any building or structure is to be moved from a location situate within the city, either outside of the city or to another location therein, then the council may impose as a condition prior to the granting of a permit under this article that the site from which the building is to be removed will be restored to the condition of surrounding unoccupied property, and if such restoration is not made, as required, then the proceeds of either of the two certified checks mentioned in this article may be used for the purpose of so restoring such property.

Section 4-8 Moving more than one structure

Where more than one structure is to be moved by the same builder under the provisions of this article, then he may, after the installation of each unit, shift the bond and the certified checks required by this article to the next unit to be moved, but such shift in security shall not be made until the previous structure has been completely installed upon its foundation, the utilities thereto connected, and the premises placed in the same condition as surrounding property, except where the house and grounds committee feels that a delay in landscaping may be granted until all of the series of structures have been installed upon their new locations.

Section 4-9 Construction of moving permit

A permit granted pursuant to the provisions of this article shall not be construed as authorizing the holder thereof to break, injure or remove any telephone, telegraph or electric light poles or electric lines, telephone lines or wire, or in securing permission from the owner thereof and providing for the payment of damages therefor.

Section 4-10 Additional conditions may be imposed

The council shall have the right to impose any additional reasonable conditions upon the applicant for a permit under this article as it shall deem proper, taking

into consideration any unusual or peculiar circumstances that may be involved in moving the property in question.

Section 4-11 Penalty for failure to obtain permit

Any firm, person or corporation who moves any building or structure over or upon the streets, alleys or sidewalks of the city without first obtaining a house moving permit shall be guilty of a misdemeanor and upon conviction shall be fined the sum of five hundred dollars, which sum shall constitute and be a lien against the building or structure moved without such permit having been first obtained.

CHAPTER 5

EMERGENCY SERVICES

ARTICLE I.

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- 5-1.1 Name of Organization
- 5-2 Definition
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CHAPTER 5

CIVIL DEFENSE

ARTICLE I.

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- 5-11 Qualifications and oaths of civil defense personnel
- 5-12 Enforcement of orders, rules, etc., promulgated pursuant to chapter

Section 5-1 Policy and purpose

The purpose of this chapter and the policy of the city are to organize a civil defense organization in conformity with the state civil defense plan, as directed by section 15-5-8 of the Code of West Virginia, as amended.

Section 5-2 Definition

As used in this chapter, the term "civil defense" shall have the meaning ascribed to such term in section 15-5-2 of the Code of West Virginia, as amended.

Section 5-3 Civil defense advisory council – Created

There is hereby created a civil defense advisory council for the city.

Section 5-4 Civil defense advisory council – Composition, powers and duties generally

The civil defense advisory council shall consist of five citizens appointed by the mayor and confirmed by the council, who shall advise the governing body of the city and the city defense director, as provided for the following section, on all matters pertaining to civil defense. The mayor shall serve as ex officio chairman of the civil defense advisory council, and members thereof shall serve without compensation. Such council shall be responsible for and have general direction and control of the civil defense of the city and shall have other powers as are granted and conferred by this chapter which are not inconsistent with the other provisions of this Code or other ordinances of the city and the laws of the state.

Section 5-5 Director of civil defense – Generally

The civil defense advisory council is hereby authorized to appoint a director of civil defense, who shall perform such duties as are authorized by this chapter and the laws of the state.

Section 5-6 Director of civil defense – Powers and duties generally

The director of civil defense shall coordinate the activities of all organization for civil defense within this city and shall maintain liaison with and cooperate with the civil defense agencies and organizations within the state and within the state government. When such authority is delegated to him by the civil defense advisory council, the director of civil defense shall have direct responsibility for the organization, administration and operation of the city organization for civil defense, subject to the direction and control of the civil defense advisory council and shall also possess and be invested with such other duties and powers as prescribed by the laws of the state and the provision of this Code and other ordinances of this city, and such necessary and incidental powers and duties to effectively carry out the policy of this chapter.

Section 5-1 Policy and purpose

The purpose of this chapter and the policy of the city are to organize an emergency services organization in conformity with the state emergency services plan, as directed by section 15-5-8 of the Code of West Virginia, as amended.

Section 5-1.1 Name of Organization

The name of the emergency services organization for the town of Hamlin shall be: Hamlin Emergency Aid and Response Team (H.E.A.R.T.).

Section 5-2 Definition

As used in this chapter, the term "emergency services" shall have the meaning ascribed to such term in section 15-5-2 of the Code of West Virginia, as amended.

Section 5-3 Emergency Services advisory council -- Created

There is hereby created an emergency services advisory council for the city.

Section 5-4 Emergency Services advisory council -- Composition; powers and duties generally

The emergency services advisory council shall consist of five citizens appointed by the mayor and confirmed by the council, who shall advise the governing body of the city and the city emergency services director, as provided for the following section, on all matters pertaining to emergency services. The mayor shall serve as ex officio chairman of the emergency services advisory council, and members thereof shall serve without compensation. Such council shall be responsible for and have general direction and control of the emergency services of the city and shall have other powers as are granted and conferred by this chapter which are not inconsistent with the other provisions of this Code or other ordinances of the city and the laws of the state.

Section 5-5 Director of Emergency Services -- Generally

The emergency services advisory council is hereby authorized to appoint a director of emergency services, who shall perform such duties as are authorized by this chapter and the laws of the state.

Section 5-6 Director of Emergency Services -- Powers and duties generally

Section 5-7 Mutual aid arrangements

The director of civil defense may, in collaboration with other public and private agencies within and outside this state, develop or cause to be developed mutual aid arrangements for reciprocal civil defense aid and assistance in case of disaster too great to be dealt with unassisted. Such arrangements shall be consistent with the state civil defense plan and program, and in the time of emergency, it shall be the duty of the city organization for civil defense to render assistance in accordance with mutual aid agreements.

Section 5-8 Gifts, grants and loans

- (a) Whenever the federal or state government, or any agency or officer thereof, shall offer to this city services, equipment, supplies, materials or funds by way of gift, grant, or loan, for purposes of civil defense, the city, acting with the consent of the governor and through the mayor, may accept such offer and upon such acceptance, the mayor may authorize any officer of the city to receive such services, equipment, supplies, materials or funds on behalf of the city, and subject to the terms of the offer and the rules and regulations, if any, of the agency making the offer.
- (b) Whenever any person shall offer to the city services, equipment, supplies, materials or funds by way of gift or loan, for purposes of civil defense, the city, acting through the mayor, may accept such offer, and upon such acceptance, the mayor may authorize any officer of the city to receive such services, equipment, supplies, materials, or funds on behalf of the city, and subject to the terms of the offer.

Section 5-9 Utilization of existing facilities, etc.

In carrying out the provisions of this chapter, the director of civil defense is directed to utilize the services, equipment, supplies and facilities of existing departments, offices and agencies of the city, to the maximum extent practicable, and the officers and personnel of all such departments, offices and agencies are directed to cooperate with and extend their services and facilities to the director of civil defense and to the civil defense organization of the city, upon request.

Section 5-10 Political activity

No organization for civil defense established under the authority of this chapter shall participate in any form of political activity, or shall it be employed directly or indirectly for political purposes.

Section 5-11 Qualifications and oath of civil defense personnel

No person shall be employed or associated in any capacity in the civil defense organization of this city, established under this chapter, who advocates or has

The director of emergency services shall coordinate the activities of all organizations for emergency services within this city and shall maintain liaison with and cooperate with the emergency services agencies and organizations within the state and within the state government. When such authority is delegated to him by the emergency services advisory council, the director of emergency services shall have direct responsibility for the organization, administration and operation of the city organization for emergency services, subject to the direction and control of the emergency services advisory council and shall also possess and be invested with such other duties and powers as prescribed by the laws of the state and the provision of this Code and other ordinances of this city, and such necessary and incidental powers and duties to effectively carry out the policy of this chapter.

Section 5-7 Mutual aid arrangements

The director of emergency services may, in collaboration with other public and private agencies within and outside this state, develop or cause to be developed mutual aid arrangements for reciprocal emergency services aid and assistance in case of disaster too great to be dealt with unassisted. Such arrangements shall be consistent with the state emergency services plan and program, and in the time of emergency, it shall be the duty of the city organization for emergency services to render assistance in accordance with mutual aid agreements.

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Section 5-10 Political activity

No organization for emergency services established under the authority of this chapter shall participate in any form of political activity, or shall it be employed directly or indirectly for political purposes.

Section 5-11 Qualifications and oath of personnel

No person shall be employed or associated in any capacity in the emergency services organization of this city, established under this chapter, who advocates or has advocated a change by force or violence in the constitutional form of the government of the United States or of this state, or of this city, or overthrow of any government in the United States by force, violence, or who has been convicted or is under indictment or information charging any subversive act against the United States. Each person who is appointed to serve in this organization for emergency services shall, before entering upon his duties, take an oath, in writing before a person authorized to administer oaths in this state, which oath shall be prescribed by section 15-5-15 of the Code of West Virginia, as amended.

Section 5-12 Enforcement of orders, rules, etc., promulgated pursuant to chapter

It shall be the duty of the organization for emergency services established pursuant to this chapter, and of the officers thereof, to execute and enforce such orders, rules and regulations, and shall have available for inspection at their offices all such orders, rule and regulations, as may be made under authority of this chapter.

1st Reading to Amend
Civil Defense Ordinance
1-5-04

2nd Reading 2-2-04
and Adoption

advocated a change by force or violence in the constitutional form of the government of the United States or of this state, or of this city, or overthrow of any government in the United States by force, violence, or who has been convicted or is under indictment or information charging any subversive act against the United States. Each person who is appointed to serve in this organization for civil defense shall, before entering upon his duties, take an oath, in writing before a person authorized to administer oaths in this state, which oath shall be prescribed by section 15-5-15 of the Code of West Virginia, as amended.

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CHAPTER 6

ELECTIONS

- 6-1 Registration of voters for municipal primary and general elections — Generally
- 6-2 Registration of voters for municipal primary and general elections — Registration books
- 6-3 Registration of voters for municipal primary and general elections — Registration on election day
- 6-4 Executive committee of political party
- 6-5 Filing fees
- 6-6 Conduct of elections generally
- 6-7 Absentee voting

Section 6-1 Registration of voters for municipal primary and general elections — Generally

The citizens of the town shall be entitled to vote at all municipal primary and general elections within the precinct of the town in which they reside, provided that they are registered and qualified under the laws of the state to vote in any district, county or state election. In addition to being a registered and qualified voter under the laws of the state, a person to be entitled to vote in any municipal general election, shall register as hereinafter provided and provided and his name must also appear on the county registration books for the precinct in which he resides.

Such voter may register, change or transfer his registration with the city clerk at any time except for the three-day period preceding any municipal election. There shall be no registration, change or transfer of registration of any person by the city clerk during the three day period preceding any municipal election, however, any person may register on election day at the precinct in which he resides by signing the municipal register in the presence of the duly appointed and acting election officials, and declaring his party affiliation and stating his place of residence, and he shall be entitled to vote in the election held on that day.

Section 6-2 Registration of voters for municipal primary and general elections — Registration books

The county registration books, together with the registration of voters of the city compiled by the city clerk, shall be the registration books for all municipal primary and general elections. The council shall also sit not later than the third day preceding any municipal election for the purpose of examining such register of voters compiled by the city clerk, of adding to such register the name of persons who have not been registered and who will be entitled to vote in the

election of transferring voters from precinct to another when proper to do so, and of striking off the name of any persons who is no longer entitled to vote in such municipal election or who has died. Any person may register and have his name placed on the municipal register on Election Day as provided by this chapter.

~~Section 6-3 Registration of voters for municipal primary and general elections —
Registration on Election Day~~

REPEALED

Section 6-4 Executive committee of political party

Every political party shall certify to the city clerk the names and addresses of the members of the executive committee of each party thirty days prior to any municipal primary election. The names so certified by each political party to the city clerk shall be the official and only executive committee of that political party only if accompanied by an affidavit of two credible persons certifying, under oath that more than ten days prior to the selection of such executive committee, notice was posted at every voting precinct in the city, such notice stating the time and place where the meeting would be held for the purpose selecting an executive committee, and upon proof that in addition to posting such notice at every voting precinct, such notice was published at least once in a newspaper of general circulation in the city at least three days prior to the holding of such meeting.

Section 6-5 Filing fees

The filing fee for the office of mayor shall be ten dollars. The filing fee for the office of councilman and other elective offices shall be five dollars. Such fees shall be paid to the city clerk upon filing of the statement of the candidate.

Section 6-6 Conduct of elections generally

All municipal elections, except as otherwise provided in this chapter and the Charter of the city, shall be conducted in accordance with the laws of the state.

Section 6-7 Absentee voting

All of the provisions of sections 3-3-1 to 3-3-16 of the Code of West Virginia, as amended, relating to voting by absentees, are hereby adopted to the same extent as if such section were set out in full and embodied in this section.

CHAPTER 7

FIRE PROTECTION

ARTICLE I. IN GENERAL

- 7-1 Appointment of chief of fire department
- 7-1.1 Composition of fire department

ARTICLE II. FIRE PREVENTION CODE

- 7-2 Adoption
- 7-3 Definitions
- 7-4 Bureau of fire prevention
- 7-5 Establishment of limits of district in which storage of explosives and blasting agents is to be prohibited
- 7-6 Establishment of limits of districts in which storage of flammable liquids in outside aboveground tanks and new bulk plants for flammable combustible liquids is to be prohibited
- 7-7 Establishments of limits in which bulk storage of liquefied petroleum gases is to be restricted
- 7-8 Modifications
- 7-9 Appeals
- 7-10 New materials, processes or occupancies which may require permits
- 7-11 Violations and penalties
- 7-12 Construction of Water Mains

Article I. In General

Section 7-1 Appointment of chief of fire department

The chief of the fire department shall be appointed as provided by the Charter of the city.

Section 7-1.1 Composition of fire department

The fire department of the city shall consist of a chief, lieutenants, sergeants, a sergeant mechanic, firemen and probationary firemen.

Article II. Fire Prevention Code

Section 7-2 Adoption

There is hereby adopted by the common council for the purpose of prescribing regulations governing conditions hazardous to life and property from fire or explosion, that certain code known as the Fire Prevention Code recommended by the American Insurance Association, being particularly the 1965 Edition thereof and the whole thereof, save and except such portions as are deleted, modified or amended by this article, of which code not less than three copies have been and are now filed in the office of the city clerk, and the same hereby adopted and incorporated as fully as if set out at length herein.

Section 7-3 Definitions

- (a) Wherever the word "municipality" is used in the Fire Prevention Code adopted by section 7-2, it shall be held to mean the city.
- (b) Wherever the term "corporation counsel" is used in the Fire Prevention Code adopted by section 7-2, it shall be held to mean the attorney for the city.

Section 7-4 Bureau of fire prevention

- (a) The Fire Prevention Code adopted by section 7-2 shall be enforced by the bureau of fire prevention in the fire department of the city which is hereby established and which shall be operated under the supervision of the chief of the fire department.
- (b) The chief of the fire department may detail such members of the fire department as inspectors as shall from time to time be necessary. The chief of the fire department shall recommend to the city council the employment of technical inspectors, who, when such authorization is made, shall be selected through an examination to determine their fitness for the position. The examination shall be open to members and non-members of the fire department, and appointments made after examination shall be for an indefinite term with removal only for cause.

- (c) A report of the bureau of fire prevention shall be made annually and transmitted to the chief executive officer of the municipality. It shall contain all proceedings under the Fire Prevention Code adopted by section 7-2, with such statistics as the chief of the fire department may wish to include there in. The chief of the fire department shall also recommend any amendments to such code which, in his judgment, shall be desirable.

Section 7-5 Establishment of limits of districts in which storage of explosives and blasting agents is to be prohibited.

The limits referred to in section 12.5b of the Fire Prevention Code adopted by section 7-2, in which storage of explosives and blasting agents is prohibited, are hereby established as follows: The corporation limits of the city.

Section 7-6 Establishment of limits of districts in which storage of flammable liquids in outside aboveground tanks and new bulk plants for flammable or combustible liquids are to be prohibited.

- (a) The limits referred to in section 16.22a of the Fire Prevention Code adopted by section 7-2, in which storage of flammable liquids in outside aboveground tanks is prohibited, are hereby established as follows: All areas of the city except heavy industrial areas.

- (b) The limits referred to in section 16.51 of the Fire Prevention Code adopted by section 7-2, in which new bulk plants for flammable or combustible liquids are prohibited, are hereby established as follows: All areas of the city except in heavy industrial areas.

Section 7-7 Establishments of limits in which bulk storage of liquefied petroleum gases is to be restricted.

The limits referred to in section 21.6a of the Fire Prevention Code adopted by section 7-2, in which bulk storage of liquefied petroleum gas is restricted, are hereby established as follows: All areas of the city except heavy industrial areas.

Section 7-8 Modifications

The chief of the bureau of fire prevention shall have power to modify any of the provisions of the Fire Prevention Code adopted by section 7-2, upon application in writing by the owner or lessee, or his duly authorized agent, when there are practical difficulties in the way of carrying out the strict letter of such code; provided, that the spirit of such code shall be observed, public safety secured, and substantial justice done. The particulars of such modifications when granted or allowed and the decision of the chief of the bureau of fire prevention thereon shall be entered upon the records of the department and a signed copy shall be furnished the applicant.

Section 7-9 Appeals

Whenever the chief of the fire department shall disapprove an application or refuse to grant a permit applied for, or when it is claimed that the provisions of the Fire Prevention Code adopted by section 7-2 do not apply or that the true intent and meaning of such code have been misconstrued or wrongly interpreted, the applicant may appeal from the decision of the chief of the fire department to the common council of the city, within thirty days from the date of the decision appealed.

Section 7-10 New materials, processes or occupancies which may require permits

The chairman of the fire department, the chief of the fire department and a representative from the public to be appointed by the mayor shall act as a committee to determine and specify, after giving affected persons an opportunity to be heard, any new materials, processes or occupancies, which shall require permits, in addition to those now enumerated in the Fire Prevention Code adopted by section 7-2. The Chief of the Bureau of Fire Prevention shall post such list in a conspicuous place in his office, and distribute copies thereof to interested persons.

Section 7-11 Violations and penalties

- (a) Any person who shall violate any of the provisions of the Fire Prevention Code adopted by section 7-2 or fail to comply therewith, or who shall violate or fail to comply with any order made thereunder, or who shall build in violation of any detailed statement of specifications of plans submitted and approved thereunder, or any certificate or permit issued thereunder, and from which no appeal has been taken, or who shall fail to comply with such an order as affirmed or modified by the bureau of fire prevention or by a court of competent jurisdiction, within the time fixed therein, shall severally for each such violation and noncompliance respectively, be guilty of a misdemeanor, punishable by a fine of not less than ten dollars nor more than five hundred dollars or by imprisonment for not less than five days nor more than thirty days, or by both such fine and imprisonment.

The imposition of one penalty for any violation shall not excuse the violation or permit it to continue, and all such persons shall be required to correct or remedy such violations or defects within a reasonable time, and when not otherwise specified, each ten days that prohibited conditions are maintained shall constitute a separate offense.

- (b) The application of the above penalty shall not be held to prevent the enforced removal of prohibited conditions.

Section 7-12 Construction of Water Mains

That any extension of or addition to any water main in the Town of Hamlin be constructed of pipe in diameter of not less than 6 inches, provided:

That the Town Council of Hamlin may approve an exception to this requirement when justified by special circumstances justifying the exception.

CHAPTER 8

GARBAGE, REFUSE AND WEEDS

ARTICLE I. IN GENERAL

- 8-1 Definitions
- 8-2 Collection of refuse, etc.
- 8-3 Trash and garbage container specifications
- 8-4 Preparation of garbage
- 8-5 Storage of refuse in containers required
- 8-6 Collection or removal of refuse from premises not equipped with containers
- 8-7 Unsightly, unsanitary or hazardous accumulations of refuse
- 8-8 Delivery of refuse upon private property; maintaining dump ground
- 8-9 Throwing, scattering, etc., garbage, etc.; permitting premises to become unsanitary, hazardous, etc.
- 8-10 Unlawful disposal of trash generally
- 8-11 Burning trash etc.
- 8-12 Weeds, etc.

ARTICLE 1. In General

Section 8-1 Definitions

For the purposes of this chapter, the following words and phrases shall have the meanings respectively ascribed to them by this section:

PRIVATE SCAVENGER – One who, for hire, collects, removes or disposes of refuse.

REFUSE - All sweepings, cleanings, trash, rubbish, litter, garbage, industrial or domestic wastes; organic wastes or residue of animals sold as meat, fruit or other vegetable matter from kitchens, dining rooms, markets or places dealing in or handling meats, fowls, fruits, grain or vegetables; offal, animal excreta, the carcasses of animals, tree or shrub trimmings, dirt, wood, stone, brick, plaster or materials resulting from the demolition, alteration or construction of buildings or structures, accumulated waste materials or substances which may become nuisances, some of which are more particularly classified as follows:

(a) **PREPARED GARBAGE** - Waste material from kitchens, dining rooms and similar places, from which liquids have been drained and solid matter wrapped in paper

(b) **RAW GARBAGE** - Swill not prepared as in paragraph (a) above.

(c) **TRASH** - Waste materials containing no putrid matter or organic wastes.

REFUSE COLLECTION - The gathering of refuse containers and their contents from the premises of improved property and loading such contents into removal vehicles and returning such containers to the place where found after such contents have been emptied, for which a charge is made as provided for in section 9-14.

REFUSE DISPOSAL - The disposal of refuse by incineration or otherwise in accordance with rules and regulations promulgated by the city council

REFUSE REMOVAL - The hauling and transportation of refuse from the point of collection to the point of disposal.

Section 8-2 Collection of refuse, etc.

The essential public service of collection, removing and disposing of refuse produced in the households and place of business of the citizens of the town shall be performed by the franchised private refuse collector authorized by the state of West Virginia to operate in the Town of Hamlin.

Section 8-8 Delivery of refuse upon private property; maintain dump ground

It shall be unlawful for any person to deliver refuse to or upon private property or to maintain a dump ground, either public or private, for the deposit of garbage of any kind, within the boundary limits of the Town of Hamlin.

Section 8-9 Throwing, scattering, etc., garbage, etc.; permitting premises to become unsanitary, hazardous, etc.

It shall be unlawful for any person to throw, place or scatter any garbage, rubbish, trash or other refuse on or upon any premises, street or alley, either public or private, or adjacent thereto, and either with or without the intent to later remove or burn the same, or to suffer or permit from the accumulation of refuse, any premises owned, occupied or controlled by any such person to become or remain offensive, unsanitary, unsightly, unsafe to public health or a fire hazard.

Section 8-10 Unlawful disposal of trash generally

It shall be unlawful for any person to dispose of trash within the city.

Section 8-11 Burning trash, etc.

It shall be unlawful for any person to burn paper, waste materials, trash, garbage, or other substances within the city without first securing a permit from the Chief of Police, Mayor, or other public official designated by the Common Council to issue such burning permits.

This section shall not be construed to apply to outdoor fireplaces used for cooking purposes or fireplaces located entirely within private residences.

The council shall from time to time promulgate rules and regulations for the burning of trash and all persons having been issued a permit to burn paper, waste materials, trash, garbage and other substances shall burn the same according to such rules and regulations so promulgated.

Section 8-12 Weeds, etc.

All persons owning lots or other real estate in the city shall keep the same clear of weeds and brush and filth and in a sanitary condition, this referring to the lawn between the property line and the street curb as well as to the lot itself.

8-2-20 Penalty

Whoever violates any provision of this article shall be fined not less than one hundred dollars (\$100) or more than five hundred dollars (\$500) or required to do two hundred forty hours of community service or both, plus cost of prosecution. Each day's continued violation shall constitute a separate offense.

CHAPTER 8

JUNK AND ABANDONED VEHICLES

ARTICLE II. IN GENERAL

- 8-1 Definitions.
- 8-2 Abandonment of vehicles.
- 8-3 Junk vehicles prohibited.
- 8-4 Old vehicle tires; abandoned household appliances.
- 8-5 Authority to take possession of abandoned vehicles; enforcement;
notification to owner.
- 8-6 Notification of vehicle owner and lien holders.
- 8-7 Disposal of unclaimed vehicles.
- 8-8 Proceeds from sale.
- 8-9 Injunctive relief.
- 8-10 Junk on private property with permission of owner.
- 8-2-20 Penalty

JUNK MOTOR VEHICLE – means a motor vehicle, or any part thereof, other than an on-premises farm utilities vehicle, which:

- (1) is discarded, wrecked, ruined, scraped or dismantled;
- (2) cannot pass the State inspection required by West Virginia Code 17C-16-1 et seq., fails to display a State inspection sticker or displays a State inspection sticker which has been expired for more than sixty days;
- (3) fails to display a valid registration plate; or
- (4) is either not serving a functional purpose or use or is not in an enclosed building, a licensed salvage yard or in actual possession of a demolisher.

MOTOR VEHICLE – means a vehicle, which is or was self-propelled, including but not limited to automobiles, trucks, buses and motorcycles.

OLD VEHICLE TIRE – means a pneumatic tire in which compressed air is designed to support a load, but which, because of wear, damage or defect, can no longer safely be used on a motor vehicle, and which is either not serving a functional purpose or use or is not in an enclosed building, a licensed salvage yard or in actual possession of a demolisher.

Section 8-2 Abandonment of vehicles

No person shall, within the City, abandon a motor vehicle upon the right of way any public highway, upon any other public property, or upon any private property which he does not own, lease, rent or otherwise control unless it be a licensed salvage yard or at the business establishment of a demolisher.

Section 8-3 Junk Vehicles Prohibited

No person shall, within the City, place or deposit any junk motor vehicle upon the right of way of any public highway or upon any other public property; nor shall any person within this City place or deposit any junk motor vehicle upon private property which he does not own, lease, rent or otherwise control unless it is at a licensed salvage yard or at the business establishment of a demolisher.

Section 8-4 Old Vehicle Tires; Abandoned Household Appliances

No person shall, within this City, place or deposit any old vehicle tires or inoperative household appliance upon the right of way of any public highway or upon any other public property nor abandon the same upon any private property which he does not own, lease, rent or otherwise control, unless it be a licensed salvage yard or at the business establishment of a demolisher.

Section 8-5 Authority to take Possession of Abandoned Vehicles; Enforcement; Notification to Owner

Any enforcement agency which has knowledge of or discovers or finds any abandoned motor vehicle, any junk motor vehicle, old tire vehicle or inoperative or abandoned household appliance on either public or private property shall take the same into its custody and possession. For that purpose, the enforcement agency shall employ its own personnel, equipment and facility or hire persons, equipment and facilities for the purpose of removing, preserving and storing abandoned motor vehicles, junk motor vehicles, old tire vehicles, or inoperative or abandoned household appliances. Before taking any abandoned motor vehicle or junk motor vehicle into custody and possession from private property, the enforcement agency shall give the private property owner and the owner of such vehicle, if ascertainable, thirty days notice by registered or certified mail, that such action shall be taken unless such motor vehicle is restored to functional use.

Section 8-6 Notification of Vehicle Owner and Lien Holders

- (a) The enforcement agency which takes into custody and possession an abandoned motor vehicle or a junk motor vehicle shall, within seven days after taking custody and possession thereof, notify the last known registered owner of such motor vehicle and all lien holders of record that such motor vehicle has been taken into custody and possession, such notification to be by registered or certified mail, return receipt requested. The notice shall contain a description of such motor vehicle, including the year, make, model, manufacturer's serial or identification number, or any other number which may have been assigned to such motor vehicle by the State and any distinguishing marks; set forth the location of the facility where such motor vehicle is being held and the location where such motor vehicle was taken into custody and possession; inform the owner and any lien holders of record of their right to reclaim such motor vehicle within ten days after the date notice was received by the owner or lien holders upon payment of all towing, preservation and storage charges resulting from taking and placing such motor vehicle into custody and possession; and state that the failure of the owner or lien holders of record to exercise their right to reclaim such motor vehicle within such ten day period shall be deemed a waiver of the owner and lien holders of record of all right, title and interest in such motor vehicle and of their consent to the sale or disposal of the abandoned motor vehicle or junk motor vehicle at a public auction or to a licensed salvage yard or demolisher.
- (b) If the identity of the last registered owner of the abandoned motor vehicle or junk motor vehicle cannot be determined, or if the certificate of registration or certificate of title contains no address for the owner, or if it is impossible to determine with reasonable certainty the identity and address of all lien holders, notice shall be published as a Class I legal advertisement in compliance with the provisions of West Virginia Code 59-3-1 et seq., and the publication area for

such publication shall be the City wherein such motor vehicle was located at the time such enforcement agency took custody and possession thereof, and such notice shall be sufficient to meet all requirements of notice pursuant to this article. Any notice by publication may contain multiple listings of abandoned motor vehicles and junk motor vehicles. The notice shall be published within ten days after such motor vehicle is taken into custody and possession and shall have the same contents required for a notice pursuant to subsection (a) hereof, except that the ten day period shall run from the date such notice is published as aforesaid.

- (c) The consequences and effect of failure to reclaim an abandoned motor vehicle or junk motor vehicle within the ten day period after the notice is received by registered or certified mail or within ten days after notice is published in a newspaper as aforesaid shall be set forth in such notice.

Section 8-7 Disposal of Unclaimed Vehicles

- (a) If an abandoned motor vehicle or junk motor vehicle is not reclaimed as provided for in section 8-6, the enforcement agency in possession of the abandoned motor vehicle or junk motor vehicle shall sell it either at a public auction or to a licensed salvage yard or demolisher. The purchaser of such motor vehicle shall take the title to such motor vehicle free and clear of all liens and claims of ownership and shall receive a sales receipt from the enforcement agency, which disposed of such motor vehicle. The sales receipt at such sale shall be sufficient title only for purposes of transferring such motor vehicle to a licensed salvage yard or to a demolisher for demolition, wrecking or dismantling, and no further titling of such motor vehicle shall be necessary by either the purchaser at the auction, the licensed salvage yard or the demolisher, who shall be exempt from payment of any fees and taxes required pursuant to West Virginia Code 17A-3-1 et seq.; provided, that the purchaser at the auction shall place such motor vehicle in the possession of a licensed salvage yard or demolisher within twenty days from the date he purchases such motor vehicle; and if such licensed salvage yard or demolisher does not demolish such motor vehicle, such licensed salvage yard or demolisher shall be required to pay all fees and taxes required pursuant to West Virginia Code Article 17A-3
- (b) When an enforcement agency has in its custody and possession old vehicle tires or inoperative or abandoned household appliances collected in accordance with Section 8-6, it shall sell such property from time to time at public auction or to a licensed salvage yard or demolisher.

Section 8-8 Proceeds from Sale

From the proceeds of the sale, the Police Department shall reimburse itself for any expense it may have incurred in conducting the auction, any costs of towing,

preserving and storing the vehicle which resulted from placing the abandoned vehicle in custody and all notice and publication costs incurred pursuant to this article.

Any remainder from the proceeds of sale after payment of these costs shall be held for the last registered owner of the vehicle or entitled lien holder for ninety days, after which time, if no owner or lien holder claims the remainder, it shall be deposited in the City Treasury to be kept and maintained as a special revolving account designated as the Abandoned Vehicle Disposal Account and any monies so collected and deposited shall be used solely by the Police Department for the payment of auction, towing, preserving, storage and all notice and publication costs which result from placing other abandoned vehicles in custody, whenever the proceeds from the sale of those abandoned vehicles are insufficient to meet these expenses and costs.

The abandoned vehicle disposal account shall be under the direction and control of the City Treasurer, who shall assure that all the money is properly deposited in the account by the Police Department and that any money necessary to pay costs and expenses of those sales, as specified in the preceding paragraph are disbursed in accordance with required accounting procedures applicable to law enforcement agencies selling abandoned vehicles.

The abandoned vehicle disposal account shall never be maintained in excess of the amount necessary to efficiently and properly carry out the intentions of this article and in no event shall the abandoned vehicle disposal account be maintained in the excess of the sum of one thousand dollars (\$1,000); and whenever the abandoned vehicle disposal account exceeds that amount, the City Treasurer shall transfer the excess to the General Revenue Fund.

Section 8-9 Injunctive Relief

In addition to all other remedies provided for in this article, the City Attorney may apply to the Circuit Court for an injunction to restrain, prevent or abate the maintenance and storage of abandoned motor vehicles, junk motor vehicles old vehicle tires or inoperative or abandoned household appliances which are in violation of any provision of this article.

Section 8-10 Junk on Private Property with Permission of Owner

It is hereby declared to be a nuisance and no person shall store or allow to be stored, accumulate or exist on real estate within the City any junk, disabled and non-serviceable automobiles, automobile parts and other debris.

In addition to the penalty provided below, the City, in order to abate such nuisance, shall have the power and authority to order removal of such nuisance by giving the owner of the property, or the person in lawful possession thereof, ten days' notice and in the event such nuisance is not abated within ten days, the City shall have such right to abate such nuisance and remove any junk, disabled and non-serviceable automobiles, automobile bodies, automobile parts and other debris

and charge the expense thereof against such property, and the expense of removing and abating such nuisance shall constitute a lien against such property.

Section 8-3 Trash and garbage container specifications

The trash containers and garbage containers referred to in this chapter shall meet the following specifications:

- (a) Trash containers – Standard containers for the storage of trash shall be substantially made of metal, shall have capacity of not less than ten or more than thirty gallons, and shall be equipped with at least two carrying handles, with a tight fitting metal cover, or as shall otherwise be prescribed by the city council
- (b) Garbage containers – Standard containers for the storage of garbage shall be substantially made of metal, leak proof, and watertight, shall have capacity of approximately five gallons, and shall be equipped with an adequate carrying bail and tight fitting metal cover.

Section 8-4 Preparation of garbage

It shall be unlawful for any person to deposit or store garbage in refuse containers unless such garbage has been prepared for collection, removal and disposal, and complies with the definition of “prepared garbage” as set out in this chapter.

Section 8-5 Storage of refuse in containers required

It shall be unlawful for any person to store or permit the accumulation of refuse on or about his premises, or any premises occupied by him, unless such refuse is kept separately in standard trash and garbage containers as prescribed by this chapter.

Section 8-6 Collection of removal of refuse from premises not equipped with containers

It shall be unlawful for any municipal employees to collect or remove, at city expense, any refuse from the premises of any person or tenant thereof, unless such premises is equipped with standard containers required by this chapter, and unless such refuse is kept stored in such containers.

Section 8-7 Unsightly, unsanitary or hazardous accumulations or refuse

It shall be unlawful for any person to cause or to permit the accumulation of refuse, about or upon premises owned, occupied, or used by him when and if, in the determination of the street commission, such accumulation is unsightly, unsanitary, or hazardous to the property, life, health, safety or welfare of the public.

Section 8-12 Weeds. Etc.

Upon notice from the mayor that property is not kept in accordance with this section, the owner or holder of such property shall within three days clean the same of the above material and for each day the same is not removed, the owner or holder shall be subject to the penalties provided by section 1-7; and, if any owner or holder refuses or neglects to clear such lot or other real estate five days after notice, the mayor or council may clean the same of such objectionable material and charge the cost thereof to the owner of the real estate, and there shall be a lien against such real estate recorded on the docket according to law. (Ordinance Amended 8-18-97)

****Section 1-7 General penalty, continuing violations**

Wherever in the Code or in any ordinance or resolution of the city, or rule or regulation or order promulgated by any officer or agency of the city under authority duly vested in him or it, any act is prohibited or is declared to be unlawful or an offense or a misdemeanor, and no specific penalty is provided or the failure to do any act is declared to be unlawful or an offense or a misdemeanor, and no specific penalty is provided for the violation thereof, the violation of any such provision of the Code or any such ordinance, resolution, rule regulation or order shall be punished by a fine not exceeding five hundred dollars or by imprisonment in jail not exceeding six months, or by both such fine and imprisonment. Each day any violation of this Code or any such ordinance, resolution, rule regulation or order shall continue, shall constitute, except where otherwise provided a separate offense.

Upon notice from the mayor that property is not kept in accordance with this section, the owner or holder of such property shall within three days clean the same of the above material and for each day the same is not removed, the owner or holder shall be subject to the penalties provided by section 1-7; and, if any owner or holder refuses or neglects to clear such lot or other real estate five days after notice, the mayor or council may clean the same of such objectionable material and charge the cost thereof to the owner of real estate, and there shall be a lien against such real estate recorded on the docket according to law. (Ordinance Amended 8-18-97)

CHAPTER 9

LICENSES AND TAXATION

ARTICLE I. IN GENERAL

9-1 Tax on purchases of intoxicating liquors at retail.

Article II. Licensing of Certain Enumerated Businesses, Activities, Trades and Employments.

- 9-2 Licenses required; license taxes levied
- 9-3 Circuses, carnivals and other public shows
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- 9-5 Junk dealers and their agents
- 9-6 Hawkers and peddlers
- 9-7 Pawnbrokers
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- 9-10 Bowling alleys, billiard, pool or bagatelle tables
- 9-11 Beer dealers, etc.
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Article II.

Licensing of Certain Enumerated Businesses, Activities, Trades and Employments

Section 9-2 Licenses required; license taxes levied

No person shall, without a license, engage in or prosecute, within the city, any of the businesses, activities, trades or employments named in the following sections of this article. The license taxes specified in this article are hereby levied on every person engaging in or prosecuting, within this city, any such businesses, activities, trades or employments.

Section 9-3 Circuses, carnivals and other public shows

The license fee to exhibit a circus or menagerie, a circus and menagerie combined, wild west show, or other itinerant show not exhibited in a theater, opera house or other permanent place for public shows, shall be based upon the number of railroad cars or motor trucks used to transport the property or equipment of such shows, but not including railroad cars or motor trucks used to transport the personnel thereof. If railroad cars are used the fee shall be four dollars for each car for each day which any performance is given; if motor trucks are used the fee shall be three dollars for each truck for each day on which any performance is given.

The license fee to exhibit a street or other carnival shall be five dollars a week for each entertainment, performance or exhibition given at or in the vicinity of any such carnival. Each such entertainment, performance or exhibition shall require a separate license, whether or not shown under the same canvas and whether or not exhibited for additional compensation; and upon any such entertainment, performance or exhibition being concluded, so that an additional fee for admission is charge, an additional license fee shall be required for any further or additional entertainment, performance or exhibition. To operate any riding device of any kind at or in the vicinity of any street or carnival show, the fee shall be ten dollars a week for each such device.

To keep or maintain any concession stand selling service goods, ware or merchandise, such as food, soft drinks, ice cream, candy floss and the like, at or in the vicinity of such street or carnival show, the fee shall be five dollars a week for each such concession. To maintain any concession stand such as balls games, bingo, cane rack, penny pitch-till-you-win, striking machine, weighing machine, shoot gallery, artful dodger bumper, fish pond, dart game, or other legitimate games of skill, none of which shall be controlled by the operator, at or in the vicinity of any street or carnival show, the fee shall be ten dollars a week for each such concession. To operate or maintain a candy wheel or any other legitimate merchandise wheels, when operated without control of the operation, the fee shall be twenty-five dollars a day. To operate or maintain rides of all kinds the

Article I. In General

Section 9-1 Tax on purchases of intoxicating liquors at retail

Be it ordained by the governing body of Hamlin, West Virginia, that after the effective date of this Ordinance, pursuant to Chapter 8, Article 13, Section 7 of the Official Code of West Virginia, of 1931, as last amended, there is hereby imposed a tax of five percent of the retail purchase price of any and all intoxicating liquors purchased from the Alcohol Beverage Control Commission or from any person licensed to sell wine at retail to the public under the provision of Chapter 60, Article 8 of the aforesaid Code of West Virginia, within the corporate boundaries of the municipality. Such tax shall be levied upon the purchaser of said intoxicating liquor or wine, and shall be added to any wine. Such tax shall be received by the municipality from the State Treasury pursuant to the rules and regulations adopted by the said Alcohol Beverage Control Commissioner. Provided, however, that such tax shall not be collected on intoxicating liquors sold by or purchased from holders of a license issued under the provision of Chapter 60, Article 7 of said Code of West Virginia. (As amended June 1, 1981)

Section 9-1A Liquor License Fee

- (a) As the State of West Virginia shall require a retail outlet to obtain a liquor license from the State, the Town of Hamlin shall also issue liquor licenses subsequent to the retail outlet receiving a liquor license from the State. After the issuance of a State liquor license, the applicant must then file an application with the Recorder of the Town of Hamlin.
- (b) The annual retail license period shall be from the 1st date of July, to the 30th date of June of the following year. The annual retail license fee, if an applicant holds a Class A retail license under State law, shall be sum of One Thousand Five Hundred (\$1,500.00) Dollars per outlet. The annual retail license fee for the initial year of issuance shall be prorated based on the number of days remaining between the date of issuance and the subsequent 30th of June.
- (c) A retail license shall expire on the 30th day of June of each and may be renewed only upon proper application filed with the Town Recorder.
- (d) No person may sell liquor at any retail outlet if the retail license applicable to such outlet has been suspended or revoked, or has expired.
- (e) All retail licenses issued or renewed under the provisions of this section shall expire and be of no further force of effect as of the 1st day of July in the year 2000. Licenses issued thereafter will be so issued in accordance with applicable law.
- (f) Violations of the provisions of this ordinance shall be punishable by fine of Five Hundred (\$500.00) Dollars and/or imprisonment for up to thirty (30) days.

fee shall be ten dollars each a week; provided, however that such games as roll downs, blowers, spinners, swinging ball, creepers, race tracks, spot the spot, and all other games controlled by the operator are hereby forbidden and no license shall be granted to any circus, show or street carnival where such games are operated; provided, further, that no circus, show or street carnival shall be licensed which has any gypsy fortune tellers or gypsies connected therewith in any manner.

The provisions of this section shall not apply to any educational, literary, dramatic, musical or benevolent society, or volunteer fire companies, not conducted for private profit, where such exhibitions are confined to one county.

Section 9-4 Fortune telling

The annual license fee to act as a fortuneteller, palmist, phrenologist, spiritualist, medium, clairvoyant, mind reader, or any other person who performs the art or profession of telling the past or forecasting the future shall be one hundred dollars.

Section 9-5 Junk dealers and their agents

The annual license fee to act, as a junk dealer shall be twenty-five dollars, and to act as a junk dealer's agent such fee shall be ten dollars.

Section 9-6 Hawkers and peddlers

The annual license fee to act as a hawker or peddler, if the person licensed travels without a motor vehicle, shall be ten dollars; if he travels with a motor vehicle, fifteen dollars. The words "hawker" and "peddler", within the meaning of this section, shall be as defined by section 11-12-8 of the Code of West Virginia.

Section 9-7 Pawnbrokers

The annual license fee to engage in the business of pawnbroker shall be one hundred dollars.

The term "pawnbroker" shall include any person engaged in the business of lending money on deposit or pledge of personal property or other valuable thing, other than securities or printed evidence of indebtedness, or in the business of purchasing personal property, such as article made of or containing gold, silver, platinum or other precious metals or jewels of any descriptions for the purpose of reducing or smelting them into any form different from their conditions or construction when purchased and reselling or marketing the product.

Section 9-8 Theaters and public shows

The annual license fee for the operation of any theater, opera house or other permanent place for public shows, with a fixed location, shall be ten dollars.

Section 9-9 Collection agencies

The annual license fee to engage in the business of a collection agency within the city shall be one hundred dollars. For purposes of this section, solicitation or collection by or through an agent operating within the city shall be considered to be engaging in the business of a collection agency within the city. Before such certificate of license is issued, the person applying for the same shall execute a continuing bond in the form prescribed by the city clerk with satisfactory corporate surety in the penalty of two thousand dollars, conditioned that such person will pay all damages resulting from any unlawful act or action by such person or his agent in connection with the conduct of the business of the collection agency. This bond shall be filed with the city clerk.

Section 9-10 Bowling alleys, billiard, pool or bagatelle tables.

The annual license fee to keep or maintain a bowling alley, a billiard, pool or bagatelle table or table of like kind, for public use, where any charge is made for the use of the same, shall be ten dollars.

The licensee, his agents or employees shall not permit any person in any manner to bet or wager anything of value upon any game played upon such alleys or tables.

Persons keeping or maintaining billiard, pool or bagatelle tables or other tables of like kind, their agents or employees, shall not permit any person under the age of eighteen years to play at such tables and shall not permit any such person under the age of eighteen to remain or linger whether playing at such tables or not, in the room where such tables are located.

Section 9-11 Beer dealers, etc.

Any retailer, distributor or brewer of non-intoxicating beer whose place of business is situated within the city shall pay the city an annual license tax in an amount equal to the levied by the state for such business.

Section 9-11A Annual License Tax

By virtue of this Ordinance, there is hereby imposed an annual license tax upon distributors and retailers of wine within the City limits of Hamlin, West Virginia, and to such end, after the effective date of this Ordinance, no person may engage in business in the capacity of distributor or retailer of wine as provided by Chapter

60, Article 8 of the West Virginia Code of 1931, as last amended, within the corporate limits of the City, without first obtaining a license from the City, nor shall a person continue to engage in any such activity after his license has expired, been suspended or revoked. No person may be licensed in more than one of such capacities at the same time.

The City shall collect an annual fee for license under this Section as follows:

- (a) Twenty-five Hundred Dollars (\$2,500.00) per year for a distributor's license.
- (b) One Hundred Fifty Dollars (\$150.00) per year for a retailer's license.

The license period shall begin on the first day of July of each year commencing with July 1, 1981, and ending on the thirtieth day of June of the following year, and if the initial license is granted for less than a year, the fee shall be computed in proportion to the number of quarters remaining in the fiscal year, including the quarter in which application is made.

A retailer who has more than one place of retail business shall obtain a license for each separate retail establishment. A retailer's license may be issued only to the proprietor or owner of a bona fide grocery store or wine specialty shop.

Section 9-12 Stores

Every person establishing, operating or maintaining a special store within the city shall pay an annual license tax of five dollars and fifty cents (\$5.50) for the privilege of establishing, operating and maintaining such store.

Every person establishing, operating and maintaining a general store within the city shall pay an annual license tax of fifteen dollars for the privilege of establishing, operation and maintaining such store.

The term "general store" as used in this section shall be construed to mean and include any store or any mercantile establishment in which goods, wares or merchandise of any kind are purchased, ordered, sold or offered for sale either at retail or wholesale.

The term "special store" as used in this section shall be construed to mean and include any store or mercantile establishment in which goods, wares, merchandise of any kind, except cigarettes, tobacco products and soft drinks, are purchased, ordered, sold or offered for sale, either at retail or wholesale, and which contains no coin operated devices, owned and operated by the store proprietor.

Section 9-13 Real estate brokers and salesmen

The annual license fee for real estate brokers shall be ten dollars and for real estate salesmen such fee shall be five dollars.

Section 9-14 Insurance companies and agencies

The annual license fee for each insurance company and agency shall be ten dollars, payable July 1 of each year. Such license fee shall be paid by each insurance company doing business within the city.

Section 9-15 Energy and telephone companies; public utility

The annual license fee for every company or corporation which is subject to the jurisdiction of the West Virginia Public Service Commission, and which furnishes a public utility service for profit within the corporate limits of the Town of Hamlin shall be one hundred dollars (\$100.00) per year, payable on or before July 1 of each year. (Amended July 1, 1977)

Section 9-16 Tax a debt; lien of unpaid tax; recordation of lien

A tax due and unpaid under this article shall be a debt due the city. It shall be a personal obligation of the taxpayer and shall be a lien upon the property of the taxpayer; provided, that such lien shall be subject to the restrictions and conditions embodied in article 10C, chapter 38 of the Code of West Virginia, and any amendment made or which may hereafter be made thereto.

Section 9-17 Collection by action or suit; injunction

The city clerk may collect any tax, interest and penalty due and unpaid under the provisions of this article by action in debt, assumpsit, motion for judgment or other appropriate proceeding, or by a suit to enforce the lien therefor in any county in which property of the taxpayer may be found; or, if the tax due and unpaid under this article is three hundred dollars or less, by suit in the court of any justice having jurisdiction of the taxpayer or of this property. In the failure of

Section 9-18 Administration of article by city clerk

The administration of this article is vested in and shall be exercised by the city clerk who shall prescribe forms and reasonable rules in conformity with this article for the making of returns and for the ascertainment, assessment and collection of the taxes imposed hereunder; and the enforcement of any of the provisions of this article in any of the courts of the state shall be under the exclusive jurisdiction of the city clerk, who shall require the assistance of and act through the city attorney.

CHAPTER 10

MINORS

10-1 Curfew for minors under eighteen – Established

10-2 Curfew for minors under eighteen – Penalty for violation of curfew

Section 10-1 Curfew for minors under eighteen – Established

No child under the age of eighteen years shall loiter upon the streets, sidewalks, alleys, parks, playgrounds or in any public place within the corporate limits of the city after the hour of ten p.m., and any child under such age found in any of the enumerated places after such hour, not accompanied by their parents or an adult, and not there for some legitimate and proper purpose, shall be presumed to be loitering and the city police, upon finding any child under the above enumerated circumstances, shall either take such child home or take such child to the police station and call his parents to come for him and in either event the parents of such child shall be informed as to where such child was found and what such child was doing, if anything, at the time of his being apprehended.

Section 10-2 Curfew for minors under eighteen – Penalty for violation of curfew

Any child under the age of eighteen years who persists in violating the curfew and is apprehended therefore more than three times in a six month period shall be certified to the juvenile court of the county, for proper disciplinary action.

CHAPTER 11.

MOTOR VEHICLES AND TRAFFIC.

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Article I. In General

Section 11-1 Injuring or tampering with vehicle

Any person who either individually or in association with one or more persons willfully injures or tampers with any vehicle or breaks or removes any part of or from a vehicle without the consent of the owner is guilty of a misdemeanor.

Any person who with intent to commit any malicious mischief, injury or other crime climbs into or upon a vehicle whether it is in motion or at rest or with like intent attempts to manipulate any of the levers, starting mechanism, brakes or other mechanism or device of a vehicle while the same is at rest and unattended or with like intent sets motion any vehicle while the same is at rest and unattended is guilty of a misdemeanor.

Section 11-2 Unlawful taking of a vehicle

Any person who drives a vehicle, not his own, without consent of the owner thereof, and with intent temporarily to deprive such owner of his possession of such vehicle, without intent to steal the same, is guilty of a misdemeanor. The consent of the owner of a vehicle to its taking or driving shall not in any case be presumed or implied because of such owner's consent on a previous occasion to the taking or driving of such vehicle by the same or a different person. Any person who assists in, or is a party or accessory to or an accomplice in any such unauthorized taking or driving, is guilty of a misdemeanor and upon conviction shall be punished as provided by section 1-7.

Section 11-3 Vehicle identification numbers – buying, selling, etc., vehicles, etc., without manufacturers' numbers

Any person who knowingly buys, receives, disposes of, sells, offers for sale, or has in his possession any motor vehicle, or engine removed from a motor vehicle, from which the manufacturer's serial or engine number or other distinguishing number of identification mark or number placed thereon under assignment from the state department of motor vehicles has been removed, defaced, covered, altered, or destroyed for the purpose of concealing or misrepresenting the identity of said motor vehicle or engine is guilty of a misdemeanor.

Section 11-4 Vehicle identification numbers – altering or changing engine or other numbers

No person shall with fraudulent intent deface, destroy or alter the manufacturer's serial or engine number or other distinguishing number or identification mark of a motor vehicle nor shall any person place or stamp any serial, engine or other number or mark upon a motor vehicle, except one assigned thereto by the state department of motor vehicles. Any violation of this provision is a misdemeanor.

This section shall not prohibit the restoration by an owner of an original serial, engine or other number or mark of a motor vehicle when such restoration is made under permit issued by the state department of motor vehicles, nor prevent any manufacturer from placing in the ordinary course of business numbers or marks upon motor vehicles or parts thereof.

Section 11-5 Accidents – Duty to stop

The driver of any vehicle involved in an accident resulting in injury to or death of any person, or resulting only in damage to a vehicle which is driven or unattended by any person, shall immediately stop such vehicle at the scene of such accident, or as close thereto as possible, but shall then forthwith return to and in every event shall remain at the scene of the accident until he has fulfilled the requirements of section 11-6. Every such stop shall be made without obstructing traffic more than necessary. Any person failing to stop or failing to comply with the requirements of section 11-6 shall, upon conviction, be punished as provided by section 1-7.

Section 11-6 Accidents – 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 unattended by any person shall give his name, address and the registration number of the vehicle he is driving and shall upon request and if available exhibit his operator's or chauffeur's license to the person struck or the driver or occupant of or person attending any vehicle collided with and shall render to any person injured in such accident reasonable assistance, including the carrying, or the making arrangements for 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.

Section 11-7 Vehicular equipment and condition generally

It shall be unlawful for any person to drive or move, or for the owner to cause or knowingly permit to be driven or moved on any street or highway any vehicle, or combination of vehicles, which is in such an unsafe condition as to endanger any person or property of another, or which does not contain those parts, or is not at all times equipped with such lamps and other equipment in proper condition and adjusted to insure safe operation of such vehicle. This section applies to headlights, tail lights, clearance lamps, side marker lamps, and reflectors, brakes in good working order and condition and adequate to control the movement of and stop and hold such vehicle, including two separate means and applying the brakes, each of which means shall be effective to apply the brakes to at least two wheels, and such brakes shall further meet the requirements of section 17C-15-31 of the Code of West Virginia.

This section shall also be construed to require all vehicles driven or operated within the city to be equipped with such horns and warning devices, mufflers, mirrors, windshields and windshield wipers, safety glass and tires as are required by state law, and it shall be further unlawful for any person to drive any motor vehicle knowing the same to be in unsafe condition so as to endanger the life and property of others.

Section 11-8 Leaking loads

It shall be unlawful for any person to haul or transport any gravel, cinders or like substances over or on any of the paved streets or alleys of this city in any vehicle or other conveyance which is not sufficiently enclosed, so as to permit the leakage or scattering or in any way permitting any of the above named substances to be left on the streets or alleys.

Section 11-9 Prima facie evidence of speed by devices employing microwaves; placing of signs, etc.

Devices designed to measure and indicate or record the speed of a moving object by means of microwaves may be used by the police officers of the city.

The speed of a motor vehicle may be proven by evidence obtained by the use of any device designed to measure and indicate or recorded the speed of a moving object by means of microwaves when such evidence is obtained by police officers of the city. The evidence so obtained shall be accepted as prima facie evidence of the speed of such vehicle.

In order to inform and educate the public generally that the speed of motor vehicles operated within the city is being tested by radar mechanisms, the chief of police shall locate and place suitable and informative stationary and movable signs at strategic points on and along the streets and highways in the city giving notice to the public that such radar mechanisms are in use.

The operator of any motor vehicle convicted of the violation of any provision of this chapter or other ordinance of the city or the laws of the state by the use of evidence so obtained shall be deemed guilty thereof and shall be sentenced as provided by law.

Section 11-9.1 Speed racing prohibited

It shall be unlawful for any person to engage in or aid or abet by serving as lookout or timer or in any other capacity whatsoever in a speed race as defined herein on any public street or alley of the city. For the purpose of this section "speed racing" shall mean (a) the operation of a motor vehicle in speed acceleration competition with another motor vehicle or motor vehicles; or (b) the operation of a motor vehicle in speed acceleration competition against time; or (c)

the operation of a motor vehicle in speed competition with another motor vehicle or motor vehicles where the speed exceeds the lawful speed limit.

Any person who violates the provisions of this section shall be guilty of a misdemeanor and upon conviction thereof, shall be punished for a first offense, being a fine of not less than fifty dollars nor more than one hundred dollars and for a second offense, a fine of not less than fifty dollars nor more than five hundred dollars or by imprisonment for not less than six days nor more than sixty days or by both such fine and imprisonment. For the purpose of this section, a forfeiture of bail or collateral deposited to secure such person's appearance in court, which forfeiture has not been vacated, shall be equivalent to a final conviction.

Whenever a person is convicted for a violation of the provisions of this section, which conviction has become final, then the police judge of the city shall immediately forward a transcript of such conviction to the commissioner of motor vehicles of the state.

Section 11-10 Authorized emergency vehicles generally

- (a) The driver of an authorized emergency vehicle, when responding to an emergency call or when in the pursuit of an actual or suspected violator of the law or when responding to but not upon returning from a fire alarm, may exercise the privileges set forth in this section, but subject to the conditions herein stated.
- (b) The driver of an authorized emergency vehicle may:
 - (1) Park or stand, irrespective of the provisions of this 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 turning in specified directions.
- (c) The exemptions herein granted to an authorized emergency vehicle shall apply only when the driver of any such vehicle while in motion sounds audible signal by bell, siren or exhaust whistle as may reasonably necessary, and when the vehicle is equipped with at least one lighted lamp displaying a red light 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 red light visible from in front of the vehicle.
- (d) The foregoing provisions shall not relieve the driver of an authorized emergency vehicle from the duty to drive with due regard for the safety of all

persons, nor shall such provisions protect the driver from the consequences of his reckless disregard for the safety of others.

Article II. Traffic-Control Devices

Section 11-11 Obedience to and required traffic-control devices generally

- (a) The driver of any vehicle shall obey the instructions of any official traffic-control device applicable thereto placed in accordance with the provisions of this 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.
- (b) 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.

Section 11-12. 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 such terms and lights shall indicate and apply to drivers and of vehicles and pedestrians as follows:

- (a) Green alone or "Go":
 - (1) Vehicular traffic facing the signal, except when prohibited under section 17C-12-2 of the Code of West Virginia, 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 cross walk at the time such signal is exhibited.
 - (2) Pedestrians facing the signal may proceed across the roadway within any marked or unmarked crosswalk.
- (b) Yellow alone or "Caution" when shown following the green or "Go" signal:
 - (1) Vehicular traffic facing the signal is thereby warned that the red or "Stop" signal will be exhibited immediately thereafter and such vehicular traffic shall not enter or be crossing the intersection when the red or "Stop" signal is exhibited

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

(c) Red alone or "Stop":

- (1) Vehicular traffic facing the signal shall stop before entering the crosswalk on the near side of the intersection or, if none, then before entering the intersection and shall remain standing until green or "Go" is shown alone.
- (2) No pedestrian facing such signal enter the roadway unless he can do so safely and without interfering with any vehicular traffic.

(d) Red with green arrow:

- (1) Vehicular traffic facing such signal may cautiously enter the intersection only to make the movement indicated by such arrow but shall yield the right of way to pedestrians lawfully within a cross walk and to other traffic lawfully using the intersection.
- (2) No pedestrian facing such signal shall enter the roadway unless he can do so safely and without interfering with any vehicular traffic.

- (e) In the event an official traffic-control signal is erected and maintained at a place other than an intersection, the provisions of this section shall be applicable except as to those provisions which by their nature can have no application. Any stop required shall be made at a sign or marking on the pavement indicating where the stop shall be made, but in the absence of any such sign or marking the stop shall be made at the signal.

Section 11-13. Pedestrian walk and wait signals.

Whenever special pedestrian-control signals exhibiting the words "Walk" or "Wait" are in place such signals shall indicate as follows:

- (a) Walk. Pedestrians facing such signal may proceed across the roadway in the direction of the signal and shall be given the right of way by the drivers of all vehicles.
- (b) Wait. No pedestrian shall start to cross the roadway in the direction of such signal, but any pedestrian who has partially completed his crossing on the walk signal shall proceed to a sidewalk or safety island while the wait signal is showing.

Section 11-14. Flashing signals.

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

- (a) Flashing red (stop signal). When a red lens is illuminated with rapid intermittent flashes, drivers of vehicles shall stop before entering the nearest crosswalk at an intersection or at a limit line when marked, or, if none, then before entering the intersection, and the right to proceed shall be subject to the rules applicable after making a stop at a stop sign.
- (b) Flashing yellow (caution signal). When a yellow lens is illuminated with rapid intermittent flashes, drivers of vehicles may proceed through the intersection or past such signal only with caution.

Section 11-15. Traffic-control at site of street, etc., construction or maintenance.

The driver of any vehicle shall obey the traffic-control instructions of persons authorized by the state road commissioner or by the city to operate traffic-control devices, act as flagmen, or operate follow-vehicles at or near the site of street or highway construction or maintenance work, for the purpose of regulating, warning or guiding traffic, subject to the exceptions granted the driver of an authorized emergency vehicle in this chapter. Any person failing to comply with the requirements of this section shall be guilty of a misdemeanor.

Section 11-16. Display of unauthorized signs, signals or markings.

- (a) No person shall place, maintain or display upon or in view of any street or highway any unauthorized traffic-control device or traffic-control signal, or any unauthorized sign, signal, marking or device which purports to be or is an imitation of or resembles an official traffic-control device or railroad sign or signal, or which attempts to direct the movement of traffic, or which hides from view or interferes with the effectiveness of an official traffic-control device or any railroad sign or signal, and no person shall place or maintain upon any street or highway an traffic-control device bearing thereon any commercial advertising. This shall not be deemed to prohibit the erection upon private property adjacent to a street or highway of signs giving useful directional information and of a type that cannot be mistaken for official signs.
- (b) Every such prohibited device, signal, sign or marking is hereby declared to be a public nuisance and the state road commissioner or the city is hereby empowered to remove the same or cause it to be removed without notice.

Section 11-17. 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.

Section 11-17.A Prohibition of right turns at traffic-control devices

That right turns on a red light, or stop signal, at the intersection of Court Street and Walnut Street is hereby prohibited during the following hours: 7 a.m. to 5 p.m., Monday through Friday.

Article III. Operation of Vehicles Generally

Section 11-18. Speed regulations – Generally.

- (a) No person shall drive a vehicle on a street or highway at a speed greater than is reasonable and prudent under the conditions and having regard to the actual potential hazards, the existing. In every event speed shall be so controlled as may be necessary to avoid colliding with any person, vehicle or other conveyance on or entering the streets or highways in compliance with legal requirements and the duty of all persons to use due care.
- (b) Where no special hazard exists that requires lower speed for compliance with subsection (a) of this section, the speed of any vehicle not excess of the limits specified in this section or established as authorized by section 11-22 shall be lawful, but any speed in excess of the limits specified in this section or established as so authorized shall be unlawful.
 - (1) Fifteen miles per hour when passing a school building or school grounds abutting on a road, street or highway during school recess or while children are going to or leaving school during opening or closing hours. Such speed restriction shall not apply to vehicles traveling on a controlled-access highway which is separated from the school or school grounds by a fence or barrier approved by the state road commission;
 - (2) Twenty-five miles per hours in any business or residence district;
 - (3) 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 section 11-22 and as provided by state law.
- (c) The driver of every vehicle shall, consistent with the requirements of subsection (a) of this section, drive at an appropriate speed 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 street or highway conditions.
- (d) The speed limit on controlled-access highways and interstate highways, where no special hazard exists that requires a lower speed, shall in no event be

lower than fifty-five miles per hour and the speed limits specified in subsection (b) hereof shall not apply.

Section 11-19. Speed regulations – Special speed limitations on vehicles not designed for carrying passengers and equipment with pneumatic tires.

Subject to all other speed restrictions of this chapter no person shall drive a vehicle not designed for carrying passengers and equipped with pneumatic tires at a speed in excess of:

- (a) Twenty miles per hours in any business district;
- (b) Twenty-five miles per hours in any residence district;
- (c) Forty miles per hour on open country highway;
Trucks licensed at eight thousand pounds gross vehicle weight or less shall be permitted the same speed as passenger cars.

Section 11-20. Speed regulations – Special speed limitations on vehicles not equipped with pneumatic tires.

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

Section 11-21. Speed regulations – Minimum speed.

No person shall operate a vehicle at such a slow speed as to impede or block the normal and reasonable movement of traffic except when reduced speed is necessary for safe operation or to comply with the law.

Section 11-22. Speed regulations – Special speed limits may be established.

Whenever the council shall determine upon the basis of engineering and traffic investigation that a special speed limit is needed and required to render safe any street or part thereof under the conditions found to exist or at any intersection, the council may determine 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 street, part of the street or other places, but the indicated speed shall not be less than fifteen miles per hours.

Section 11-23. Speed regulations – Applicability of sections 11-18 to 11-22 to state highways.

The provisions of sections 11-18 to 11-22 shall not be construed to establish speed limits on state highways located within the city.

Section 11-24. Limitations on overtaking and passing – Generally.

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 on-coming 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 shall return to the right hand side of the roadway before coming within one hundred feet of any vehicle approaching from the opposite direction.

Section 11-25. Limitations – Crossing double lines.

The chief of police is hereby authorized to designate, by double painted lines on the streets, highways, where it shall be unlawful for a driver of a vehicle to pass or attempt to pass and overtake another vehicle going in the same direction, and where it shall be unlawful for any person to drive or turn a vehicle to the left of such double painted lines.

Any driver of a vehicle who shall pass or attempt to pass or overtake another vehicle going in the same direction at a point where the street or highway is painted with a double painted dividing line, or turn a vehicle to the left of such double painted line, shall, upon conviction, be guilty of a misdemeanor and shall be punished as provided by section 1-7.

Section 11-26. Driving to left of center of roadway.

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

- (1) When approaching the crest of a grade or upon a curve in the street or 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;

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

Section 11-27. No passing zones.

Where the state road commission or the city has erected signs, or has appropriate markings on the roadway indicated the beginning and end of a zone where overtaking, passing or driving to the left of the roadway is prohibited, every driver shall obey the direction of such signs or markings and it shall be unlawful to pass or overtake other vehicles, or to drive to the left of the center line of such roadway in such zones.

Section 11-28. Operating vehicle not displaying inspection certificate; failure to produce certificate.

It shall be unlawful for any person to drive or operate or allow or permit to be driven or operated, upon the streets, roads and highways of the city any motor vehicle, trailer, semi-trailer or pole trailer, or any combination thereof, registered in this state, without having displayed upon such vehicles a certificate of inspection and approval, as required by sections 17C-16-1 to 17C-16-9 of the Code of West Virginia, or to fail to produce such certificates of inspection and approval upon demand of any police officer.

Section 11-29. Registration – Operating unregistered vehicle, etc.

It shall be unlawful for any person to drive or move, or for any owner knowingly to permit to be driven or moved, upon any street, road or highway within the city, any vehicle of a type required to be registered under the provisions of sections 17A-3-1 to 17-A-3-23 of the Code of West Virginia, which is not registered and for which a certificate of title has not been issued or applied for, or for which an appropriate fee has not been paid, as required by such state law.

Section 11-30. Registration – Signing, carrying and displaying registration.

The owner of every vehicle shall sign the registration card of such vehicle and such registration card shall at all times be carried in the vehicle to which it refers, or shall be carried by the person driving or controlling such vehicle who shall display the same upon demand of a police officer, as is required by section 17A-3-13 of the Code of West Virginia.

Section 11-31. Driving without operator's or chauffeur's license.

No person shall drive any motor vehicle upon the streets, road or highways within the city unless such person has a valid license as an operator or chauffeur, as prescribed by the provisions of section 17B-2-1 to 17B-2-14 of the Code of West Virginia.

Section 11-31.1. Driving when privilege suspended or revoked.

Any person who drives a motor vehicle upon any public street, road or highway within the city at a time when his privilege to do so is suspended or revoked, shall be guilty of a misdemeanor and upon conviction shall be punished by imprisonment for not less than two days nor more than six months and there may be imposed in addition thereto a fine of not more than five hundred dollars.

Section 11-32. Driving under the influence of intoxicating liquor or drugs.

- (a) It is unlawful and punishable as provided in paragraph (c) of this section for any person who is under the influence of intoxicating liquor to drive any vehicle on any street in the city, or for any owner of such vehicle to knowingly permit the same to be so operated by one under the influence of intoxicating liquor.
- (b) It is unlawful and punishable as provided in paragraph (c) of this section for any person who is a habitual user of or under the influence of any narcotic drug or who is under the influence of any other drug to a degree which renders him incapable of safely driving a vehicle to drive a vehicle within the city. The fact that any person charged with a violation of this paragraph is or has been entitled to use such drug under the laws of this state shall not constitute a defense against any charges of violating this paragraph.
- (c) A person violating any provision of this section shall for the first offense be guilty of a misdemeanor and upon conviction thereof may be punished by imprisonment in the city jail for a period of not less than twenty-four hours nor more than six months and in addition to such jail sentence, such person may be fined not less than fifty dollars nor more than one hundred dollars. A person violating any provision of this section shall for the second offense occurring within a five year period be guilty of a misdemeanor and upon conviction thereof shall be punished by imprisonment in the city jail for a period of not less than 30 days nor more than one year, which sentence shall be subject to probation. The word "street" as used herein shall mean any public way.

Section 11-32.1 Implied consent for chemical test for intoxication – Administration of test; type of test.

Any person who drives a motor vehicle upon the public streets or highways of this city shall be deemed to have given his consent by the operation thereof, subject to the provisions of sections 11-32.1 to 11-32.7, to a chemical test of either his blood, breath or urine for the purpose of determining the alcoholic content of his blood whenever he shall be lawfully arrested by a law enforcement officer as hereinafter defined for the offense of driving a motor vehicle under the influence of intoxicating liquor. The test shall be incidental to a lawful arrest and shall be

administered at the direction of the arresting law enforcement officer having reasonable grounds to believe the person to have been driving a motor vehicle upon the public streets or highways while under the influence of intoxicating liquor. The law enforcement agency by which such law enforcement officer is employed shall designate which one of the aforesaid tests shall be administered. Provided, that if the test so designated is a blood test and the person so arrested refused to submit to such blood test, the law enforcement officer making such arrest shall designate in lieu thereof, either a breath or urine test to be administered, notwithstanding the provisions of section 11-32.3, such refusal to submit to a blood test only shall not result in the suspension of the arrested person's operator's or chauffeur's license, or junior or probationary operator's license, or nonresident privilege to drive. The person arrested shall be told that his refusal to submit to the test finally designated as provided in this section will result in the suspension of his operator's or chauffeur's license, or junior or probationary operator's license, or non resident privilege to drive for a period of six months.

For the purposes of sections 11-32.1 to 11-32.7, the term "law enforcement officer" shall mean and be limited to (1) any member of the department of public safety of this state, (2) any sheriff and any deputy sheriff of any county, and (3) any member of a municipal police department under civil service in accordance with the provisions of sections 8-5A-1 to 8-5A-22 of the Code of West Virginia.

Section 11-32.2. Implied consent for chemical test for intoxication – How test given; additional tests; use of results; liability incident to giving test.

Only a doctor of medicine or osteopathy, or registered nurse or trained medical technician at the place of his employment acting at the request and direction of the law enforcement officer, may withdraw blood for the purpose of determining the alcoholic content thereof. These limitations shall not apply to the taking of a breath test or a urine specimen. In withdrawing blood for the purpose of determining the alcoholic content thereof, only a previously unused and sterile needle and sterile vessel may be utilized and the withdrawal shall otherwise be in strict accord with accepted medical practices. A nonalcoholic antiseptic shall be used for cleansing the skin prior to venipuncture. The person tested may at his own expense, have a doctor of medicine or osteopathy, or registered nurse, or trained technician at the place of his employment, of his own choosing, administer a chemical test in addition to the test administered at the direction of the law enforcement officer. The failure or inability of the person arrested to obtain an additional test shall not preclude the admission into evidence at any administrative or judicial proceeding of the results of the test taken at the direction of the law enforcement officer. Upon the request of the person who is tested, full information concerning the test taken at the direction of the law enforcement officer shall be made available to him. No person who administers any such test upon the request of a law enforcement officer as herein defined, no hospital in or with which such person is employed or is otherwise associated or in

which such test is administrated, and no other person, firm or corporation by who or with which such person is employed or is in any way associated, shall be in anywise criminally liable for the administration of such test, or civilly liable in damages to the person tested unless for gross negligence or willful or wanton injury.

Section 11-32.3. Implied consent for chemical test for intoxication – Refusal to take test; suspension of driver's license.

If any person under arrest as specified in section 11-32.1 refuses to submit to the test finally designated in the manner provided in section 11-32.1, no test shall be given, but the commissioner of motor vehicles, upon receipt of a sworn statement of the law enforcement officer that (1) he had reasonable grounds to believe such person had been driving a motor vehicle upon public streets or highways of this city while under the influence of intoxicating liquor, (2) such person was lawfully placed under arrest for the offense of driving a motor vehicle upon the public streets or highway of this city while under the influence of intoxicating liquor, (3) such person refused to submit to the test finally designated in the manner provided in section 11-32.1, and (4) such person was told that his operator's or chauffeur's license, or junior or probationary operator's license, or nonresident privilege to drive would be suspended for a period of six months if he refused to submit to the test finally designated in the manner provided in section 11-32.1, shall make and enter an order suspending such persons operator's or chauffeur's license, or junior or probationary operator's license, or nonresident privilege to drive for a period of six months. A copy of such order shall be forward to such person by registered or certified mail, return receipt requested. No such suspension shall become effective until ten days after receipt of the copy of such order. Any person who is unconscious or who is otherwise in a condition rendering him incapable of refusal, shall be deemed not to have withdrawn his consent, for a test of his blood, breath or urine as provided in section 11-32.1 and the test may be administered although such person is not told that his failure to submit to the test will result in the suspension of his operator's or chauffeur's license, or junior or probationary operator's license, or nonresident privilege to operate a motor vehicle for a period of six months.

A suspension hereunder shall run concurrently with the period of any suspension or revocation imposed in accordance with other provisions of sections 11-32.1 to 11-32.7 and growing out of the same incident which gave rise to the arrest for driving a motor vehicle while under the influence of intoxicating liquor and the subsequent refusal to undergo the test finally designated in accordance with the provisions of section 11-32.1

Section 11-32.4. Implied consent for chemical test for intoxication -- Hearings, judicial review.

A person whose license or nonresident privilege to drive has been suspended shall be afforded an opportunity to be heard by the state commissioner of motor vehicles and judicial review as provided by West Virginia Code, Chapter 17C, Article 5, Section 4.

Section 11-32.5. Implied consent for chemical test for intoxication -- Interpretation and use of chemical test.

Upon trial for the offense of driving a motor vehicle on the public streets or highways of this city while under the influence of intoxicating liquor, or upon the trial of any civil or criminal action or proceeding arising out of acts alleged to have been committed by any person while driving a motor vehicle while under the influence of intoxicating liquor, evidence of the amount of alcohol in the person's blood at the time of the arrest or of the breath or urine, is admissible, if the sample or specimen was taken within two hours from and after the time of arrest or of the acts alleged, and shall give rise to the following presumptions or have the follow effect:

- (a) Evidence that there was, at that time, five-hundredths of one percent or less, by weight, of alcohol in his blood, shall be prima facie evidence that the person was not under the influence of intoxicating liquor;
- (b) Evidence that there was, at that time, more than five-hundredths of one percent and less than ten-hundredths of one percent, by weight of alcohol in the person's blood shall be relevant evidence, but it is not to be given prima facie effect in indicating whether the person was under the influence of intoxicating liquor;
- (c) Evidence that there was, at that time, ten-hundredths of one percent or more, by weight, of alcohol in his blood, shall be admitted as prima facie evidence that the person was under the influence of intoxicating liquor.

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

A chemical analysis of a person's blood, breath or urine, in order to give rise to the presumptions or to have the effect provided for in subdivisions (a), (b), and (c) of this section, must be performed in accordance with methods and standards approved by the State Department of Health. A chemical analysis of blood or urine to determine the alcoholic content of blood shall be conducted by a qualified

laboratory or by the State police scientific laboratory, of the criminal identification bureau of the department of public safety.

The provisions of this section shall not limit the introduction in any administrative or judicial proceeding of any other competent evidence bearing on the question of whether the person was under the influence of intoxicating liquor.

Section 11-32.6. Implied consent for chemical test for intoxication – Right to demand test.

Any person lawfully arrested for driving a motor vehicle on the public streets or highways of this city while under the influence of intoxicating liquor and who is not tested at the direction of the arresting law enforcement officer under the provisions of sections 11-32.1 to 11-32.7 or who is lawfully arrested as aforesaid by any other police officer, shall have the right to demand that a sample or specimen of his blood, breath or urine be taken within two hours from and after the time of arrest, and that a chemical test thereof be made. The analysis disclosed by such chemical test shall be made available to such arrested person forthwith upon demand.

Section 11-32.7. Implied consent for chemical test for intoxication – Fee for test.

A fee not exceeding five dollars (\$5.00) shall be allowed to the person withdrawing a blood sample or administering a urine test at the request and direction of a law enforcement officer in accordance with the provisions hereof. If the person whose blood sample was withdrawn or whose urine was tested was arrested and charged with a violation of section 11-32.2, the city shall pay such fee, and if such person is subsequently convicted of such charge, such fee shall be taxed as a part of the costs of the criminal proceeding and shall be paid into the general fund of the city. If the person whose blood sample was withdrawn or whose urine was tested was arrested and charged with violation of sections 11-32.1 to 11-32.6, the city shall pay such fee, and if such person is subsequently convicted of such charge, such fee shall be taxed as a part of the costs of the criminal proceeding and shall be paid into the general fund of the city.

Section 11-33. Reckless driving.

Any person who drives any vehicle in willful or wanton disregard for the safety of persons or property is guilty of reckless driving.

Every person convicted of reckless driving may be punished upon a first conviction by imprisonment for a period of not less than five days or more than ninety days, or by fine of not less than twenty-five dollars nor more than five hundred dollars, or by both such fine and imprisonment, and on a second or subsequent conviction may be punished by imprisonment for not less than ten days

nor more than six months, or by a fine of not less than fifty dollars nor more than one thousand dollars, or by both such fine and imprisonment.

Section 11-34. Avenues designated through highways.

The avenues in the city shall be and they are hereby declared through highways, except where otherwise designated by stop signs, and vehicles traveling thereon shall have the right of way over those entering from the cross streets.

Vehicles entering such avenues from cross streets, where such avenues are through highways, shall be brought to a stop at the entrance thereto.

Section 11-35. Vehicle to stop at through highways, etc.

- (a) The city council with reference to streets and highways under its jurisdiction may designate through highways and erect stop signs at specified entrances thereto or may designate any intersection as a stop intersection and erect like signs at one or more entrances to such intersection.
- (b) Every such sign shall bear the word "Stop" in letters not less than six inches in height and such sign shall at night time be rendered luminous by steady or flashing internal illumination, or by a fixed floodlight projected on the face of the sign, or efficient reflecting elements on the face of the sign.
- (c) Every stop sign shall be erected as near as practicable to the nearest line of the cross walk on the near side of the roadway.
- (d) Every driver of a vehicle approaching a stop sign shall stop before entering the cross walk on the near side of the intersection or in the event there is no cross walk shall stop at a clearly marked stop line, but if none, then at the point nearest the intersecting street or highway where the driver has a view of approaching traffic on the intersecting street or highway before entering the intersection except when directed to proceed by a police officer or traffic-control signal.

Section 11-36. Right of way – Vehicles approaching or entering intersection.

- (a) The driver of a vehicle approaching an intersection shall yield the right of way to a vehicle which has entered the intersection from a different street or highway.
- (b) When two vehicles enter an intersection from a different street or highway at approximately the same time the driver of the vehicle on the left shall yield the right of way to the vehicle on the right.

- (c) The right of way rules declared in paragraphs (a) and (b) of this section are modified at through highways and otherwise as provided in this article.

Section 11-37. Right of way -- Vehicle turning left at intersection.

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

Section 11-38. Right of way -- Vehicle entering through street or highway or stop intersection.

- (a) The driver of a vehicle shall stop as required by section 11-36 at the entrance to a through street or highway and shall yield the right of way to other vehicles which have entered the intersection from such through streets or highways or which are approaching so closely on such through street or highway as to constitute an immediate hazard, but such driver having so yielded may proceed.
- (b) The driver of a vehicle shall likewise stop in obedience to a stop sign as required by this chapter at an intersection where a stop sign is erected at one or more entrances thereto although not a part of a through street or highway and shall proceed cautiously, yield 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.

Section 11-39. Right of way -- Vehicle entering street or highway from private road or driveway.

The driver of a vehicle about to enter or cross a street or highway from a private road or driveway shall yield the right of way to all vehicles approaching on such street or highway.

Section 11-40. Operation of vehicles on approach of authorized emergency vehicles.

- (a) Upon the immediate approach of an authorized emergency vehicle equipped with at least one lighted lamp exhibiting red light 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

As possible to, the right-hand edge or curb of the roadway clear intersection and shall stop and remain in such position until the authorized emergency vehicle has passed, except when otherwise directed by a police officer.

- (b) This section shall not operate to relieve the driver of an authorized emergency vehicle from the duty to drive with due regard for the safety of all persons using the street or highway.

Section 11-41. Following fire apparatus.

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

Section 11-42. Crossing fire hose.

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

Article IV. Stopping, Standing and Parking.

Section 11-43. Prohibited in specified places.

- (a) No person shall stop, stand or park a vehicle, except when necessary to avoid conflict with other traffic or in compliance with law or the direction 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) On a cross walk;
 - (6) Within twenty feet of a cross walk at an intersection;
 - (7) Within thirty feet upon the approach to any flashing beacon, stop sign, or traffic-control signal located at the side of a roadway;
 - (8) Between a safety zone and the adjacent curb or within thirty feet of points on the curb immediately opposite the ends of a safety zone, unless a different length is indicated by signs or markings;
 - (9) Within fifty feet of the nearest rail of a railroad crossing;
 - (10) Within fifty 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 each entrance (when properly signposted);
 - (11) Alongside or opposite an street excavation or obstruction when stopping, standing or parking would obstruct traffic;

- (12) On the roadway side of any vehicle stopped or parked at the edge or curb of a street;
- (13) Upon any bridge or other elevated structure upon a street or highway or within a street or highway tunnel;
- (14) At any place where official signs prohibit stopping;
- (15) Within twenty feet of any mail receptacle served regularly by a carrier using a motor vehicle for daily deliveries, if such parking interferes or with or causes delay in the carrier's schedule;
- (16) Upon any controlled-access highway;
- (17) At any place on any street or highway where the safety and convenience of the traveling public is thereby endangered.

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

Section 11-44. Prohibited in hazardous or congested places.

When signs are erected, or a street or highway marked by a painted curb, slanted painted lines, or other usual and customary means are employed to indicate hazardous and congested places, it shall be unlawful for any person to stop, stand or park a vehicle in such designated places or areas.

Section 11-45. Stopping upon direction of policeman, etc.

When directed to do so by a policeman, auxiliary policeman, school guard or other authorized person, or when a policeman, auxiliary policeman, school guard or other authorized person displays a sign or placard with the word "STOP", the driver of a motor vehicle shall immediately stop and remain stopped until directed to proceed.

Section 11-46. Standing or parking generally.

No person shall stand or park a vehicle in a roadway other than parallel with the edge of the roadway, head in the direction of traffic, and with the curbside wheels of the vehicle within eighteen inches of the edge of the roadway, except as follows:

- (a) Upon those streets or highways designated or marked or where signs for angle parking have been established, vehicles shall be parked at the angle to the curb indicated by such mark or signs.
- (b) In places where and at hours when stopping for the purpose of loading and unloading of merchandise or materials is permitted, vehicles used for the transportation of merchandise or material may back into the curb to take on or discharge loads when the owner of such vehicle holds a permit from the chief of police granting him such privilege, and such permit shall be either in the

possession of the driver or on the vehicle at the time such vehicle is backed against the curb to take on or discharge a load, and it shall be unlawful for any owner or driver to violate any of the special terms or conditions of any such special permit.

Section 11-47. Obstructing traffic.

No person shall stop, stand or park any vehicle upon a street or highway, 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 at the curb temporarily during the actual loading or unloading of passengers or when necessary in obedience to the traffic regulations or traffic signs or signals of a police officer.

Section 11-48. Parking in places officially designated "No Parking".

When authorized official signs are erected on any street or highway, or when the curb thereof is painted, or other methods usually used to indicate no parking are employed, it shall be unlawful for any person to park a vehicle in such designated place. The chief of police is authorized to designate "No Parking" areas on streets and highways, erect "No Parking" signs, paint curbs, and to use other usual and customary means to indicate no parking. The chief of police shall notify the council and the police judge of the erection of "No Parking" signs, painted curbs, other methods to designate no parking, and all no parking places and areas.

Section 11-49. Parking near schools.

When signs prohibiting parking are erected, curbs painted, or other usual and customary methods are used to indicate no parking, it shall be unlawful to park on the side of the street in front of or alongside of any school property, so designated as no parking, between the hours of 8:00 A.M. and 5:00 P.M. on the days when school is in session or at other times if so designated.

Section 11-50. Parking in alleys.

No person shall park a vehicle within a public alley in such a manner or under such conditions as to leave available less than ten feet of the width of the roadway for the free movement of vehicular traffic.

Section 11-51. Loading zones.

The chief of police may, with the consent of the council, designate certain portions of the street as a loading zone, and when so identified by proper signs or markers giving notice thereof and designated as loading zones for the purpose of loading and unloading and delivering, parking shall be prohibited during the periods of time and on the days specified on such signs.

In any place so marked and designated as a loading zone, parking shall be prohibited, except while actually loading or unloading, and no vehicle shall be permitted to stand or park in any space designated as a loading zone during the times specified on such sign.

No person shall stop, stand or park a vehicle for any purpose or for any length of time other than for the expeditious loading and unloading of materials in any place marked as a loading zone during the hours prohibited on such sign so erected. In no case shall the stop for loading and unloading exceed one hour.

Section 11-52. Designation of parking spaces.

No person, except the chief of police, acting in conformity with the provisions of this article, shall designate any space or any street or highway within the city as "Parking" or "No Parking".

Section 11-53. Parking time regulations where meters installed.

On any street where parking meters are officially installed in accordance with and under the authority of this chapter or any other ordinance of the city, the parking time regulations provided on such parking meters shall control when they are in conflict with any provision of this article or any other ordinance.

Section 11-54. Parking violations -- Responsibility of owner.

No person shall allow, permit or suffer any vehicle registered in his name to stand or park in any street or highway in the city in violation of this article or any other ordinances of the city regulating the standing and parking of vehicles. It shall be presumed that a motor vehicle parked in violation of the provisions of this article or any other ordinances of the city was done so by the registered owner or under his direction, or with his permission and consent.

Section 11-55. Parking violations -- Impounding of vehicles -- Generally.

Any vehicle parked in a place where parking is prohibited by this article or any other ordinances of the city, or at places where parking is prohibited by appropriate signs, may be impounded and hauled to a garage designated by the police department of the city, provided, that no vehicle shall be impounded until specific orders are issued for such purpose by the chief of police, or the captain or lieutenant of police on duty at the time.

Section 11-56. Parking violations – Impounding of vehicles – Cost to be paid by owner, etc.

The owner or person in charge of any vehicle impounded as provided in the preceding section shall pay the cost of impounding and hauling such vehicle in addition to any fine and cost assessed in connection with the violation of this article.

Section 11-57. Parking violations – Penalty.

Any person violating any of the provisions of this article shall be deemed guilty of a misdemeanor and upon conviction shall be fined not more than ten dollars.

Section 11-57.1. Monthly rental of parking spaces in municipal lots; unlawful to park in rented spaces.

The city is hereby authorized to rent parking spaces in the city parking lot upon a monthly basis. Such parking spaces when so rented shall be marked with the name of the person renting such space and no person except the renter of such space or members of his immediate family shall be permitted to park a motor vehicle in such space. Any person violating this section by parking a motor vehicle in such space shall be deemed guilty of a misdemeanor and upon conviction shall be fined no more than ten dollars. If any motor vehicle belonging to any one except the renter of such space or a member of his immediate family shall leave a motor vehicle parked in such space for more than one-half hour after it has been tagged by the police department, then such automobile may be impounded and hauled to a garage designated by the police department of the city as provided under Sections 11-55, 11-56 and 11-57.

Section 11-58. Unlicensed, disabled or abandoned vehicles.

It shall be unlawful for any person to park an unlicensed motor vehicle or a disabled motor vehicle upon the streets of the city. Any vehicle parked thereon in the same place for a period of forty-eight hours shall be presumed to be disabled and abandoned by the owner of the city police department shall have the right to tow away at the owner's expense any unregistered motor vehicle parked upon the streets of the city and after a vehicle has remained in the same position for a period of forty-eight hours. Any such vehicle shall be presumed to be a disabled vehicle within the meaning of this section and the city shall have the right to charge the owner of such motor vehicle for hauling it away and for storing it until it is redeemed. In the event that such motor vehicle is not redeemed within a reasonable time, then the city shall have the right to assert a lien against it for the hauling costs and the storage of such motor vehicle and may proceed to sell the same for the hauling costs and storage bill by asserting a lien therefor against the owner and also against the motor vehicle, in the same manner as other liens of similar nature asserted

Article V. Parking Meters.

Section 11-59. Installation; type.

To aid the common council in the enforcement of the regulations provided for by this article and to offer the public a convenient method to pay the established fee provided for parking privileges, parking meters shall be installed along restricted streets, or portions thereof, and in certain designated areas, by means of which the parking fees may be collected.

Such parking meters shall be of the type that will clearly indicate the amount of time allotted for parking upon the payment of the fee and shall be equipped so that they will indicate when such fee has been paid or when the time paid for has elapsed.

Section 11-60. Parking on designated streets, etc., limited; classification.

Parking on certain streets and in certain areas, to be designated by the council, shall be limited by the installation of parking meters into the following classifications:

- (a) Parking for thirty minutes may be done upon the payment of five cents for each thirty-minute period.
- (b) Parking for a period of one hour may be done upon the payment of ten cents.
- (c) Parking for the period of time and for the fee to be designated by the council and indicated upon the parking meter.

Section 11-61. Hours of operation.

The time limits prescribed by the preceding section and the fees prescribed to be paid for the privilege of parking shall not apply between the hours of 6:00 P.M. and 8:00 A.M., week days, and shall not apply on Sundays and holidays, unless otherwise specified by the council.

Section 11-62. Violations and penalties.

Parking on any of the restricted streets or certain designated areas, as provided for in this article, without the payment of the prescribed fee, or parking longer than the time allotted, shall be a misdemeanor and shall be punishable, upon conviction thereof, by a fine of not less than one dollar or more than five dollars. The position of the parking meters indicating that the fee has not been paid, or that parking has been had for a longer time than paid for, shall be prima facie evidence that this article has been violated.

Article VI. Operation of Motor - driven Cycles.

Section 11-63. Operation in City Parks - Prohibited; exception.

It shall be unlawful to operate a motor-driven cycle in any city park unless such operation is conducted in the manner of a sporting event for the financial or recreational benefit of the general public, and unless such event is sanctioned by the mayor and council.

Section 11-64. Operation of excessively loud motor - driven cycle prohibited.

It shall be unlawful for anyone to operate a motor-driven cycle in such a manner so as to produce a loud or excessive amount of noise which is obnoxious to the peace of the community.

Section 11-65. Liability insurance.

It shall be unlawful to operate a motor-driven cycle in the Town of Hamlin, West Virginia, without having a policy of liability insurance in effect thereon with an insurance company licensed to do business in the State of West Virginia and having a certificate of such insurance in the possession of such driver at all times.

Section 11-66. Safety equipment and requirements for motorcyclists, motor-driven cycles and mopeds.

- (a) No person shall operate or be a passenger on any motorcycle or motor-driven cycle unless he is wearing securely fastened on his head by either a neck or chin strap a protective helmet designed to deflect blows, resist penetration and spread impact forces. Any helmet worn by an operator or passenger shall meet the performance specifications established by the United States of America Standards Institute, Specifications for Protective Headgear for Vehicle Users, Standard Z 90.1-1996.

Helmets worn by operators and passengers shall be coated with a reflectorized substance, or have attached thereto a reflectorized material, on both sides and the back thereof, with a minimum of ten square inches of coated substance or attached material in each of the three locations.

- (b) No person shall operate or be a passenger on any motorcycle or motor-driven cycle unless he is wearing safety, shatter-resistant eyeglasses (excluding contact lenses), or eye goggles or face shield that complies with the performance specifications established by the United States of America Standards Institute, Specifications for Head, Eye and Respiratory Protection Z 2.1-1959

Section 11-67. Violations and penalties.

Operation of motor-driven cycles in violation of the foregoing section shall be punishable, upon conviction thereof, by a fine not less than ten dollars (\$10.00) nor more than one hundred dollars (\$100.00).

Article VII. Bicycles and Play Vehicles.

Section 11-68. "Bicycle" – defined.

The term "bicycle" as used in this article shall mean any two-wheel vehicle propelled by foot pedals.

Section 11-69. Rights and duties of bicycle riders generally.

Every person riding a bicycle upon a street, alley or road situate within the city shall be granted all of the rights and shall be subject to all of the duties applicable to the driver of a vehicle, except as to the special regulations set forth in this article and except as to those provisions of this chapter which by their nature can have no application.

Section 11-70. Manner of riding bicycles.

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

Section 11-71. Passengers on bicycles.

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

Section 11-72. Clinging to vehicles.

No person riding upon any bicycle, coaster, roller skates, sled or toy vehicle shall attach the same or himself to any vehicle being operated or driven upon a street, alley or road situate within the city.

Section 11-73. Riding bicycles on roadways, etc. – Generally.

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.

Section 11-74. Riding bicycles – riding more than two abreast.

Persons riding bicycles upon a street, alley or road situate within the city shall not ride more than two abreast, except on paths or parts of roadways set-aside for the exclusive use of bicycles.

Section 11-75. Carrying articles on bicycles.

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

Section 11-76. Riding bicycles on sidewalks.

It shall be unlawful for any person to operate a bicycle upon any sidewalk in the city; except, that the police judge or chief of police may issue special written permits permitting the use of sidewalks for the delivery of papers by persons riding bicycles, which permits shall designate the sidewalks which may be used and the hours within which such deliveries may be made.

Section 11-77. Bicycle equipment – Lamps.

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

Section 11-78. Bicycle equipment – Brakes.

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

ARTICLE VIII MOTOR VEHICLES INSURANCE

Section 11-79. Scope of Article.

This article applies to the operation of all motor vehicles in the Town of Hamlin required to be registered to have proof of security pursuant to Article 3, Chapter 17A of the West Virginia Code, with the exception of motor vehicles owned by the State, any of its political subdivisions or by the Federal Government.

Section 11-80. Required Security; Exceptions.

Every owner or registrant of a motor vehicle required to be registered and licensed in the State of West Virginia and operated in the Town of Hamlin shall maintain security as hereinafter provided in effect continuously throughout the registration or licensing period except in case of a periodic use or seasonal vehicle, in which case the owner or registrant is required to maintain security upon the vehicle only for the portion of the year the vehicle is in actual use. As used in this section, a periodic use or seasonal vehicle means a recreational vehicle, antique motor vehicle, motorcycle or other motor vehicle which is stored part of the year and used seasonally.

Every non-resident owner or registrant of a motor vehicle, which is operated upon any road or highway in the Town of Hamlin and which has been physically present within the Town of Hamlin for more than thirty (30) days during the preceding 365 days, shall thereafter maintain security as hereinafter provided in effect continuously throughout the period such motor vehicle remains within the Town of Hamlin.

No person shall knowingly drive or operate upon any road, street or highway in the Town of Hamlin any motor vehicle upon which security is required by the provisions of this article unless such security is in effect.

Such security shall be provided by one of the following methods:

- (a) By an insurance policy delivered or issued for the delivery in the State of West Virginia by an insurance company authorized to issue vehicle liability and property insurance policies in the State of West Virginia within limits which shall be not less than the requirements of West Virginia Code 71D-4-2 and West Virginia Code 17D-3-5, or
- (b) By any other method approved by the Commissioner of the Department of Motor Vehicles of the State of West Virginia as affording security equivalent to that offered by the policy of insurance, including qualification as a self-insurer under the provisions of West Virginia Code 17D-6-2, or
- (c) By depositing with the West Virginia State Treasurer such cash or other securities in a manner set forth in West Virginia Code 17D-4-16.

The requirements of this section apply to every registered and licensed vehicle operated in the Town of Hamlin; provided, that this article shall not apply to any motor vehicle owned by the State of West Virginia or by a political subdivision of the State of West Virginia, nor to any motor vehicle owned by the Federal Government.

Section 11-81. Certificate of Insurance.

- (a) All insurance carriers transacting insurance in the Town of Hamlin shall supply a certificate of insurance to the insured or to any person subject to the registration provisions of West Virginia Code 17A-3-1, et seq., certifying that there is in effect a motor vehicle liability policy upon such motor vehicle in accordance with the provision so West Virginia Code 17A-3, et seq. It shall be sufficient for the purposes of this article that any such insurance carrier issue a certificate in compliance with West Virginia Code 17D-2A-4. The certificate shall give its effective date and the effective date of the policy and, unless the policy is issued to a person who is not the owner of the motor vehicle, must designate by explicit description, in such detail as the Commissioner of the Department of Motor Vehicles of the State of West Virginia shall by rule require, all motor vehicles covered and all replacement vehicles of similar classifications. Each such certificate of insurance shall list the name of the policyholder and the name of the vehicle owner if different from the policyholder.

The certificate must specify for each vehicle listed therein, that there is a minimum liability insurance coverage not less than requirements of West Virginia Code 17D-4-2 and West Virginia Code 17D-3-5.

- (b) The Certificate provided pursuant to the provisions of the section or other proof of insurance shall be carried by the insured in the appropriate vehicle for use as proof of security, and must be presented at the time vehicle inspection as required by West Virginia Code 17C-16-1: provided, that an insured shall not be guilty of a violation of this subsection (b) if he furnishes proof that such insurance was in effect within seven (7) days of being cited for not carrying such certificate or other proof in such vehicle. As used in this section, proof of insurance means a certificate of insurance, an insurance policy, a mechanically produced copy of an insurance policy or a certificate of self-insurance.

Section 11-82. Investigation by Duly Authorized Law Enforcement Officer to Include Inquiry Regarding Required Security

At the time of investigation of a motor vehicle offense or accident in the Town of Hamlin by a police officer of said Town or other law enforcement agency or when a vehicle is stopped by a law enforcement officer for reasonable cause, the officer of such agency making such investigation shall inquire of the operator of any motor vehicle involved as to the existence upon such vehicle or vehicles of the proof of insurance or other security required by the provision so this Code and upon a finding by such law enforcement agency, officer or agent thereof that the security required by the provisions of this article is not in effect, as to any such vehicle, he shall notify the West Virginia Department of Motor Vehicle of such finding within five (5) days if not citation requiring a Court appearance is issued.

provided, that such law enforcement officer or agent shall not stop vehicle solely to inquire as to the certificate of insurance. A defendant, who is charged with a traffic offense that requires an appearance in Court, shall present the Court at the time of his or her appearance or subsequent appearance with proof that the defendant had security at the time of the traffic offense as required by this article. If, as a result of the defendant's failure to show proof, the Court determines that the defendant has violated this article, it shall notify the Department of Motor Vehicles of the State of West Virginia within five (5) days.

Section 11-83. Criminal Penalties

In addition to any penalty provided under the laws of the State of West Virginia, any person who violates any provision of this article is guilty of a misdemeanor, and, upon conviction thereof, shall be fined not less than Two Hundred (\$200.00) Dollars nor more than Five Thousand (\$5,000.00) Dollars, or imprisoned in jail not less than fifteen (15) days nor more than one (1) year, or both fined and imprisoned.

Approved by Council this 4th day of March, 1991

ARTICLE IX ALL TERRAIN VEHICLES

WHEREAS, the Council of the Town of Hamlin has determined that in order to best protect the safety, health and general well-being of all those individuals operating ATVs, individuals operating other permitted and licensed vehicles, and pedestrians; that governmentally owned, leased or otherwise controlled property situated within the corporation limits of Hamlin should be banned and prohibited altogether, and further that such activity should be criminalized with the imposition of progressive fines against those individuals operating ATVs in prohibited areas.

NOW, THEREFORE, BE IT ORDAINED AND ENACTED BY THE COUNCIL OF THE TOWN OF HAMLIN AS FOLLOWS:

Section 11-84 Definitions

"All-terrain vehicle" (ATV) means any motor vehicle designed for off-highway use and designed for operator use only with no passengers, having a seat or saddle designed to be straddled by the operator and handlebars for steering control.

Section 11-85 Prohibited Acts

Except as specifically authorized herein, no person shall operate an ATV within or upon any street, alley, sidewalk, parking lot or other governmentally owned, leased or otherwise controlled property situated within the corporate limits of Hamlin.

CHAPTER 12

RESTAURANTS AND OTHER FOOD HANDLING ESTABLISHMENTS.

- 12-1. Definitions.
- 12-2. License to operate—Required; fee; issuance generally; term.
- 12-3. License to operate—Certificate of approval prerequisite to issuance.
- 12-4. License to operate—Revocation—Generally.
- 12-5. License to operate—Revocation—Appeals from rulings of health officer.
- 12-6. State regulations adopted.
- 12-7. Inspections generally.
- 12-8. Enforcement of chapter.

Section 12-1. Definitions.

For the purposes of this chapter, the terms "food handling establishment" and "restaurant" are hereby defined to mean and include all places of business and establishment or any place, structure, premises or vehicle, or any part thereof, in which any food products intended or sold for human consumption are manufactured or prepared by any manner or means whatsoever, or which any food products intended for humans consumption are stored, served, sold, offered or displayed for sale. Such terms are hereby defined to include, but are not limited to, every restaurant, café, hog dot stand, barbecue stand, tearoom, cafeteria, dining room, tavern and grill.

Section 12-2. License to operate—Required; fee; issuance generally; term.

It shall be unlawful for any person owning or operating any food handling establishment or restaurant, as defined by section 12-1, to engage in business within the territorial limits of the city without first having obtained a license therefor. Such license shall be issued by the city clerk upon payment of a fee of Thirty-five dollars and presentation of the certificate of approval referred by section 12-3, and shall be subject to revocation as provided by section 12-4. The license period shall be for one year beginning July 1 and ending the following June 30.

Section 12-3. License to operate—Certificate of approval prerequisite to issuance.

No license to operate a food handling establishment or restaurant shall be issued to any person before such person has obtained and filed with the city clerk a certificate of approval of his establishment and place of business stating that the same complies with the regulations governing the sanitation of food handling establishments passed and adopted by the public health council of the state.

Section 12-4. License to operate—Revocation—Generally.

If, after an inspection is made, as provided for by section 12-7, the county health officer shall determine that the regulations governing the sanitation of food handling establishments, as passed by the public health council of the state, are being violated or in the event that the county health officer shall find after such inspection that any one of such regulations is being violated, then the license of such food handling establishment or restaurant shall immediately be revoked. Upon receipt of such finding of the county health officer, the city clerk shall cause to be served upon the person operating such offending food handling establishment or restaurant in the city notice that his license is revoked.

Section 12-5. License to operate—Revocation—Appeals from rulings of health officer.

Appeals from rulings or decisions of the county health officer under the provisions of this chapter shall be to the council of the city in every case resulting in a revocation of license.

Section 12-6. State regulations adopted.

The regulations adopted by the public health council of the state under the provisions of section 16-1-3 of the Code of West Virginia, insofar as the same are applicable, are hereby adopted as and shall be the regulations governing food handling establishments and restaurants as defined by this chapter. The inspections and examinations therein provided for shall be made by the county health officer.

Section 12-7. Inspections generally.

All licensees who are issued licenses under the provisions of this chapter shall be subject to inspection under the supervision of the county health officer at all times during business hours.

Section 12-8. Enforcement of chapter.

The county health officer is hereby designated as the health officer for the city and as such it shall be his duty and he shall have complete authority to enforce the provisions of this chapter.

CHAPTER 13.

STREETS AND SIDEWALKS.

ARTICLE I. GENERAL.

- 13-1. Permit required to open, grade, etc., street, etc.
- 13-2. Permit required to erect, etc., structure, etc., on or pave, etc., street, sidewalk etc.
- 13-3. Regulations governing work under sections 13-1 and 13-2.
- 13-4. Repair and relaying of sidewalks generally.
- 13-5. Sweeping, etc., dirt, trash, etc., into street or sidewalk.
- 13-6. Duty of person dropping, etc., mud, glass, etc., to remove same.
- 13-7. Duty of property owners as to keeping sidewalks clean—Generally
- 13-8. Duty of property owners as to keeping sidewalks clean—Removal of snow and ice, keeping gutters obstructed.
- 13-9. Planting hedge, shrub, etc., in street etc.
- 13-10. Power of street commissioner to trim or remove.
- 13-11. Awnings.
- 13-11.A Displaying Establishments and Other Buildings, and the Installation of Neighborhood Delivery and Collection Boxes

ARTICLE II. EXCAVATIONS.

- 13-12. Permit—Required
- 13-13. Permit—Deposit prerequisite to issuance—Generally.
- 13-14. Permit—Deposit—Refund or forfeiture.
- 13-15. Permit—Deposit—Fee.
- 13-16. Replacing surface or pavement—Streets, alleys, etc.
- 13-17. Replacing surface ore pavement—Sidewalks.
- 13-18. Barricades, warning signs, etc., required; city to be indemnified.
- 13-19. Time for completion of work.
- 13-20. Effect of noncompliance with article or failure to complete work.
- 13-21. Applicability of article—Generally
- 13-22. Applicability of article—To franchised public utilities.

Article I. In General

Section 13-1. Permit required to open, grade, etc., street, etc.

It shall be unlawful for any person to open or grade any public street, alley or public way, or to change the elevation or location thereof, or to physically change or alter the same without first obtaining a permit therefor.

Section 13-2. Permit required to erect, etc., structure, etc., on or pave, etc., street, sidewalk, etc.

It shall be unlawful for any person to build, erect, construct or reconstruct any structure, barrier, obstruction or sidewalk in any public street, alley or public way; or to fill, pave or repave the same or any part thereof, or to construct, erect, install, change or replace any drain or drainage structures therein; or to physically alter or change any public street, sidewalk, alley or public way; or to change the elevation or grade thereof in the city, without, first obtaining a permit therefor.

Section 13-3. Regulations governing work under sections 13-1 and 13-2.

Any person desiring to do any of the acts or things provided for in sections 13-1 and 13-2 shall first apply for and obtain a permit from the city council and, if such permit is obtained, granted and issued, the work shall be done in accordance with the terms, conditions and specifications thereof. The council shall have the power to authorize and direct the street commissioner to see that such work is done in accordance with the permit issued and in accordance with the directions, conditions and specifications set for in the permit.

The council may empower and authorize a designated city official to receive and act upon applications for such permits, and to issue or refuse to issue the same, and the action of such designated official shall be of the same force and effect as if done by council.

Section 13-4. Repair and relaying of sidewalks generally.

It shall be the duty of all property owners and of the agents of any nonresident owners to repair or relay any sidewalks abutting upon the property owned by him or in his charge or to repair or relay the same whenever required by an order of the council within thirty days after receiving written notice from the council requiring him to repair or relay such sidewalk. Such sidewalk shall be repaired or re-laid by the owner according to the rules and regulations and specifications adopted or prescribed by the council. If any property owner fails or refused to repair or relay any such sidewalk within thirty days after the receipt of the written notice aforesaid, the council may, in addition to any other penalty or obligation imposed by law, cause the sidewalk to be repaired or relayed at the expense of the owner.

and may levy and collect the expense thereof, with interest, after a demand of thirty days has been made by the city clerk to the owner or agent of such property after the completion of the work, which cost and interest shall be collected, and if not paid, shall become a lien on the abutting property so improved.

Section 13-5. Sweeping, etc., dirt, trash, etc., into street or sidewalk.

It shall be unlawful for any person to sweep, throw or deposit dirt, trash, debris, sweepings, paper, rubbish or other waste material or substance of any kind upon any street or sidewalk.

Section 13-6. Duty of person dropping, etc., mud, glass, etc., to remove same.

Any person who drops, or permits to be dropped or thrown upon any street or sidewalk, mud, dirt, glass, or other substance likely to be injurious or likely to cause a sidewalk or street to become dusty, slippery, muddy or dangerous shall immediately remove the same, or cause it be removed.

Section 13-7. Duty of property owners as to keeping sidewalks clean—Generally.

It shall be the duty and responsibility of all adjoining property owners to keep the sidewalk in front of their premises free and clear of rubbish, debris, dirt and other materials and substances.

Section 13-8. Duty of property owner as to keeping sidewalks clean—Removal of snow and ice; keeping gutters unobstructed.

It shall be the duty of every person using or occupying in any manner or for any purpose whatsoever any house, store, shop or any tenement of any kind, and all persons having charge of churches and public buildings of every description, and the owners of unoccupied houses and unimproved lots situate on any paved street in the city, and of their agents, within three hours in a business area and within ten hours in a residential area, after the fall of any snow (unless the snow shall have fallen between the hours of 6:00 P.M. and 6:00 A.M. of the following morning, in which case it shall be removed before 11:00 A.M. in a business area and before 6:00 P.M. in a residential area, or in the case of the formation of any ice on the sidewalk, to remove or clear away from the sidewalks fronting the residences, stores, houses, churches, stables, buildings or lots so used, occupied or owned by them or under their charge, in such manner as to leave the sidewalk clean and free from snow and ice, and in such manner as not to obstruct the passage of the water in the gutters. It shall further be the duty of such persons or their agents to keep the gutters leading to the sidewalks situated in the front or at the rear or side of such tenements above named free from snow and ice and every obstruction, and free from dirt, trash and filth.

Section 13-9. Planting hedge, shrub, etc., in street etc.

No person, including the owner, lessee or tenant or any other person in possession of any lot abutting upon any street, alley or public space in the city, shall plant any hedge, shrub or bush in any street, alley or public space without the permission of the city council.

Section 13-10. Power of street commissioner to trim or remove.

The street commissioner shall have the right to trim or remove such trees and shrubs within the lines of all streets, alleys, lands, and public grounds as may be necessary to insure safety to pedestrians and vehicular traffic and he, under the power granted by this section, may remove, cause or order to be removed any tree, shrub or part thereof, which is in an unsafe condition or which, by reason of its location, may be hazardous to pedestrians or vehicular traffic. The street commissioner shall have the power to enter upon any private grounds for the purpose of trimming or removing trees and shrubbery in order to prevent danger therefrom to person or property, in the event the owner or occupant of such premises does not comply with the orders of the street commissioner relative to the trimming or removal of trees or shrubbery which in his opinion are hazardous to pedestrians or vehicular traffic.

Section 13-11. Awnings.

No person shall construct, maintain or allow to exist an awning the lowest portion of which is less than seven feet vertically from any street or sidewalk.

Section 13-11.A Displaying Establishments and Other Buildings, and the Installation of Neighborhood Delivery and Collection Boxes

It shall be the duty of all property owners owning residences or other structures in the Town of Hamlin to display house numbers pursuant to a plan of installation prepared by the United States Postal Service and approved by the Town Council of the Town of Hamlin. These house numbers shall be displayed so as to be visible.

The United States Postal Service is hereby granted permission to install on the city streets and alleys, Neighborhood Delivery and Collection Boxes for the distribution of the United States mail pursuant to a plan of distribution and installation to be approved by the Town Council of the Town of Hamlin.

Article II. Excavations.

Section 13-12. Permit—Required.

No person shall excavate, dig, cut or otherwise make any opening, hole ditch or trench in any street, sidewalk, alley or other public way in the city without first obtaining a permit to do such work from the city clerk.

Section 13-13. Permit—Deposit prerequisite to issuance—Generally.

No permit for any work described in the preceding section shall be issued until the person applying for such permit shall execute a bond in the amount of Five Hundred Dollars (\$500.00) to be approved by the City Clerk or Mayor as a guarantee that the work will be completed within a reasonable time, and that the pavement or surface of the street, sidewalk, alley or other public way will be replaced as provided by this article, subject to the approval, upon inspection, by street commissioner or the city engineer.

(As amended by Town Council on the 4th day of October, 1993)

Section 13-14. Permit—Deposit prerequisite to issuance—Refund or forfeiture.

Upon completion of the work and upon the approval thereof by the street commissioner or city engineer, the deposit referred to in section 13-13 will be refunded to the person making it. If the work is not completed in compliance with the terms of this article, such deposit shall be forfeited to the city and shall be paid into the general fund of the city.

Section 13-15. Permit—Fee.

A charge of one dollar shall be made for issuing the permit required by section 13-12.

Section 13-16. Replacing surface or pavement—Streets, alleys, etc.

In replacing the surface or pavement of streets, alleys or other public highways, except sidewalks, the sub-surface soil shall be thoroughly tamped. In the event the street is of concrete construction, eight inches of concrete shall be laid the full length of the opening, hole, ditch or trench for the full width of the pavement. If the street or alley is of asphalt or blacktop construction, the stone base shall be replaced at the same depth as the balance of the street and the stone covered with the same material that is used on the balance of the street. If the street is not paved, the street shall be replaced in as good a condition as it was before the work was commenced, using the same kind of material.

Section 13-17. Replacing surface or pavement—Sidewalks.

In replacing the surface or paving of sidewalks, the same procedure shall be followed as set out in section 13-16; except, that five inches of concrete shall be required therefor; and, except, that when an excavation, opening or hole is made in a square of pavement, the entire square, to the nearest edging mark, if there be any, shall be replaced.

Section 13-18. Barricades, warning signs, etc., required; city to be indemnified.

While any work regulated by this article is in progress, proper barricades and warning notices or signs shall be placed by day, and flares or lanterns by night, for the purpose of giving notice of the work to all persons who may use or travel such streets, sidewalks, alleys or public ways; and the person doing the work, together with the landowner for whose benefit the work is done, shall, as a condition to the issuance of the permit therefor, save harmless the city from all liability or loss in the event of damage to person or property, including city employees and city property, which may result from such work.

Section 13-19. Time for completion of work.

The reasonable time in which work regulated by this article shall be completed shall be not more than forty-five days.

Section 13-20. Effect of noncompliance with article or failure to complete work.

If any work regulated by this article is begun without complying with the terms of this article and not completed, or if begun by securing a permit and not completed, the city clerk may give to the person doing such work, or to the landowner benefiting therefrom, or either of them, ten days notice, in writing, to complete such work to the satisfaction of the street commissioner within a stated time. If the work is not completed within such stated time, the city may complete the work at the expense of such person, or the landowner benefiting therefrom.

Section 13-21. Applicability of article—Generally.

The provisions of this article shall apply to all paved or improved portions of all streets, sidewalks, alleys and other public ways within the city, whether such pavement or improvement was done at public or private expense.

Section 13-22. Applicability of article—To franchised public utilities.

This article shall not apply to any public utility now operating under a franchise within the city, unless such utility shall unreasonably delay making the necessary repairs, or make them in a manner deemed unsatisfactory by the city engineer or street commissioner. In such event, the utility shall be given ten days notice in writing to complete the work in a satisfactory manner, or be liable to the penalties contained in section 1-7.

Article I. In General

Section 13-1. Permit required to open, grade, etc., street, etc.

It shall be unlawful for any person to open or grade any public street, alley or public way, or to change the elevation or location thereof, or to physically change or alter the same without first obtaining a permit therefor.

Section 13-2. Permit required to erect, etc., structure, etc., on or pave, etc., street, sidewalk, etc.

It shall be unlawful for any person to build, erect, construct or reconstruct any structure, barrier, obstruction or sidewalk in any public street, alley or public way; or to fill, pave or repave the same or any part thereof, or to construct, erect, install, change or replace any drain or drainage structures therein; or to physically alter or change any public street, sidewalk, alley or public way; or to change the elevation or grade thereof in the city, without, first obtaining a permit therefor.

Section 13-3. Regulations governing work under sections 13-1 and 13-2.

Any person desiring to do any of the acts or things provided for in sections 13-1 and 13-2 shall first apply for and obtain a permit from the city council and, if such permit is obtained, granted and issued, the work shall be done in accordance with the terms, conditions and specifications thereof. The council shall have the power to authorize and direct the street commissioner to see that such work is done in accordance with the permit issued and in accordance with the directions, conditions and specifications set for in the permit.

The council may empower and authorize a designated city official to receive and act upon applications for such permits, and to issue or refuse to issue the same, and the action of such designated official shall be of the same force and effect as if done by council.

Section 13-4. Repair and relaying of sidewalks generally.

It shall be the duty of all property owners and of the agents of any nonresident owners to repair or relay any sidewalks abutting upon the property owned by him or in his charge or to repair or relay the same whenever required by an order of the council within thirty days after receiving written notice from the council requiring him to repair or relay such sidewalk. Such sidewalk shall be repaired or re-laid by the owner according to the rules and regulations and specifications adopted or prescribed by the council. If any property owner fails or refused to repair or relay any such sidewalk within thirty days after the receipt of the written notice aforesaid, the council may, in addition to any other penalty or obligation imposed by law upon a property owner, proceed to repair or relay such sidewalk.

and may levy and collect the expense thereof, with interest, after a demand of thirty days has been made by the city clerk to the owner or agent of such property after the completion of the work, which cost and interest shall be collected, and if not paid, shall become a lien on the abutting property so improved.

Section 13-5. Sweeping, etc., dirt, trash, etc., into street or sidewalk.

It shall be unlawful for any person to sweep, throw or deposit dirt, trash, debris, sweepings, paper, rubbish or other waste material or substance of any kind upon any street or sidewalk.

Section 13-6. Duty of person dropping, etc., mud, glass, etc., to remove same.

Any person who drops, or permits to be dropped or thrown upon any street or sidewalk, mud, dirt, glass, or other substance likely to be injurious or likely to cause a sidewalk or street to become dusty, slippery, muddy or dangerous shall immediately remove the same, or cause it to be removed.

Section 13-7. Duty of property owners as to keeping sidewalks clean—Generally.

It shall be the duty and responsibility of all adjoining property owners to keep the sidewalk in front of their premises free and clear of rubbish, debris, dirt and other materials and substances.

Section 13-8. Duty of property owner as to keeping sidewalks clean—Removal of snow and ice; keeping gutters unobstructed.

It shall be the duty of every person using or occupying in any manner or for any purpose whatsoever any house, store, shop or any tenement of any kind, and all persons having charge of churches and public buildings of every description, and the owners of unoccupied houses and unimproved lots situate on any paved street in the city, and of their agents, within three hours in a business area and within ten hours in a residential area, after the fall of any snow (unless the snow shall have fallen between the hours of 6:00 P.M. and 6:00 A.M. of the following morning, in which case it shall be removed before 11:00 A.M. in a business area and before 6:00 P.M. in a residential area, or in the case of the formation of any ice on the sidewalk, to remove or clear away from the sidewalks fronting the residences, stores, houses, churches, stables, buildings or lots so used, occupied or owned by them or under their charge, in such manner as to leave the sidewalk clean and free from snow and ice, and in such manner as not to obstruct the passage of the water in the gutters. It shall further be the duty of such persons or their agents to keep the gutters leading to the sidewalks situated in the front or at the rear or side of such tenements above named free from snow and ice and every obstruction, and free from dirt, trash and filth.

Section 13-9. Planting hedge, shrub, etc., in street etc.

No person, including the owner, lessee or tenant or any other person in possession of any lot abutting upon any street, alley or public space in the city, shall plant any hedge, shrub or bush in any street, alley or public space without the permission of the city council.

Section 13-10. Power of street commissioner to trim or remove.

The street commissioner shall have the right to trim or remove such trees and shrubs within the lines of all streets, alleys, lands, and public grounds as may be necessary to insure safety to pedestrians and vehicular traffic and he, under the power granted by this section, may remove, cause or order to be removed any tree, shrub or part thereof, which is in an unsafe condition or which, by reason of its location, may be hazardous to pedestrians or vehicular traffic. The street commissioner shall have the power to enter upon any private grounds for the purpose of trimming or removing trees and shrubbery in order to prevent danger therefrom to person or property, in the event the owner or occupant of such premises does not comply with the orders of the street commissioner relative to the trimming or removal of trees or shrubbery which in his opinion are hazardous to pedestrians or vehicular traffic.

Section 13-11. Awnings.

No person shall construct, maintain or allow to exist an awning the lowest portion of which is less than seven feet vertically from any street or sidewalk.

Section 13-11.A Displaying Establishments and Other Buildings, and the Installation of Neighborhood Delivery and Collection Boxes

It shall be the duty of all property owners owning residences or other structures in the Town of Hamlin to display house numbers pursuant to a plan of installation prepared by the United States Postal Service and approved by the Town Council of the Town of Hamlin. These house numbers shall be displayed so as to be visible.

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CHAPTER 14.

Trailers and Trailer Camps.

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Article I. In General

Section 14-1. Definitions

For the purpose of this chapter, the following words and phrases shall have the meanings respectively ascribed to them by this section:

AUTO TRAILER. Any building or structure used for living or sleeping purposes and equipped with wheels or other means of facilitate movement from place to place, and automobiles, when used for living or sleeping purposes.

AUTO TRAILER CAMP. Any lot or parcel of land used or intended to be used for the accommodation of two or more auto trailers.

CAMP SEWER. A sewer constructed in any auto trailer camp for the service of auto trailers and connected to the city sewer, or in case there is no city sewer in any street on which such auto trailer camp abuts, to a septic tank and cesspool as required by this Code or any other ordinance of the city.

TRAILER UNIT. A plot of land in an auto trailer camp used or intended to be used for the accommodation of not more than one auto trailer and not more than one automobile which is not an auto trailer.

Section 14-2. Trailers on private property generally.

It shall be unlawful for any person to place, keep or maintain any auto trailer on any land within the city without the express permission of the owner of such land, and no person shall allow, suffer or permit any auto trailer to be placed, kept or maintained on any land owned or controlled by him except in an auto trailer camp for which a permit has been issued by the city council; provided that the occupant of any single family dwelling may allow not more than one auto trailer of a nonpaying guest to be placed, kept or maintained thereon for a period not exceeding fifteen days in any period of twelve months by securing a permit as provided in section 14-7 and otherwise complying with the provisions of this chapter relating thereto.

Section 14-3. Storage of trailer on home premises of owner.

Nothing in this chapter shall be deemed to prohibit the storage of any auto trailer on the home premises of its owner for any length of time when such trailer is not used for living or sleeping purposes.

Section 14-4. Parking trailer on street overnight.

No auto trailer shall be permitted to park on any street in the city overnight.

Section 14-5. Violations of this chapter.

Any person violating any of the provisions of this chapter or failing to comply with any of its mandatory provisions shall be deemed guilty of a misdemeanor and upon conviction shall be punished as provided by section 1-7, and each person shall be deemed guilty of a separate offense for each day during any portion of which a violation of any provision of this chapter is committed, continued or permitted by such person.

In addition, any condition caused or permitted to exist in violation of the provisions of this chapter shall be deemed a public nuisance and may be abated by appropriate legal action by the city.

Article II. Permits.

Division 1. Generally.

Section 14-6. Rights conveyed by permit.

Permits issued under the terms of this chapter convey no right to erect any building other than auto trailers or to do any plumbing work or to do any electrical work. Regular building, plumbing, electrical or other permits as required by the provisions of this Code and other ordinances of this city shall be secured for all such work.

Section 14-7. Failure to commence work under permit.

Where no work is done under a permit issued under the provision of this chapter within ninety days of its issuance it shall become null and void.

Section 14-8. Record of fees collected.

The city clerk shall cause an accurate account to be kept of all fees collected under the terms of this chapter, which account shall show the date of collection, by whom paid, the address for which such payment is made and the amount of each such fee.

Division 2. Single Trailers on Private Property.

Section 14-9. Generally.

Any person desiring a permit to place or maintain a single auto trailer, as provided for in Section 14-2, shall file with the city clerk an application therefor within forty-eight hours after such an auto trailer is placed upon the ground of such single family dwelling, and a permit to be issued by the city clerk. Such

application shall describe the property where such auto trailer is to be located, either by street and number or by legal description, shall give the date with it is desired to place such auto trailer on the property, the date of expiration of such permit, a statement by the applicant that any toilet in such auto trailer will be sealed so that it cannot be used during the period of its stay on such property, and that all waste water from sinks and lavatories in such auto trailer will be disposed of in the sewer or in a cesspool if there is no sewer, but not upon the ground in any event.

Permits issued under this section shall expire three months after date of issue and no other such permit shall be issued for the same lot or parcel of land during the nine months following such expiration date.

The city council is hereby authorized in the exercise of reasonable discretion to revoke any permit issued pursuant to this section if, after due investigation, it determines that the holder thereof has violated any of the provisions of this chapter, or that such auto trailer is being maintained in an unsanitary or unsafe manner or is a nuisance. Written notice of such revocation shall be given either by personal delivery thereof to the person to be notified, or by depositing such notice in the United States registered mail in a sealed envelope, postage prepaid, addressed to such person at the address which appears on the records of the city council pertaining thereto.

Division 3. Trailer Camps.

Section 14-11. Required.

No person shall establish, maintain or operate an auto trailer camp within the city without first obtaining a permit to do so as provided by this chapter.

Section 14-12. Application, etc.

Any person desiring a permit for an auto trailer camp shall file an application therefor with the city clerk on a form to be furnished by him. Such application shall give the location by street number and legal description of the property on which such auto trailer camp is to be established and maintained, the dimensions of such property, the number of units in such camp and such other information as the city council may reasonably require. A plot plan in duplicate of such property shall be filed by the applicant with his application drawn to a scale of not less than one-eighth of an inch per foot, showing the location and dimensions of all the units, roads, buildings, sewer connections, water connections, electric outlets, baths, toilets and other essential requirements of this chapter.

Section 14-13. Expiration and renewal—Generally.

Permits issued for auto trailer camps by the city council under the provisions of this chapter shall expire one year from the date of issue unless renewed as provided in this sub-section. If the auto trailer camp is to be maintained for a period longer than one year, a renewal of the permit therefor shall be obtained from the city council. Such renewal shall be for a period not exceeding one year and shall be applied for not less than fifteen days prior to the date of expiration of such permit.

Section 14-14. Same—Reinspection and correction of defects, etc., prerequisite to renewal.

Before issuing a renewal of any permit as provided for in Section 14-10, the city council shall make reinspection of the buildings, structures, electrical equipment and plumbing of any auto trailer camp, and no such renewal shall be issued by him unless and until any defects or violations of law found therein have been corrected.

Section 14-15. Fees.

Each application for a permit to establish an auto trailer camp shall be accompanied by a fee in the amount of twenty-five dollars and one dollar for each trailer unit therein. Each application for the annual renewal of such permit shall be accompanied by a fee of five dollars for each trailer unit therein.

Section 14-16. Revocation.

Permits under this chapter other than those issued pursuant to Section 14-9 may be revoked by the city council for violation of the provisions of this chapter, or if any such auto trailer camp is maintained in any unsanitary or unsafe manner or in such a manner as to create a nuisance.

No such permit shall be revoked until a hearing upon notice by the city council is first had. Written notice of the time and place of such hearing shall be given at least five days before such hearing. Such notice may be either by personal delivery thereof to the person to be notified, or by deposit in the United States registered mail in a sealed envelope, postage prepaid, addressed to such person to be notified at the address which is directed. Such notice shall state in clear and concise language the reasons for revocation of such permit and the time when the place where such hearing is to be held. The city council may continue such hearings from time to time upon good cause being shown therefor.

ARTICLE II. Trailer Camps Generally.

Division 1. Generally.

Section 14-17. Establishment and maintenance.

Subject to the provisions of this chapter, auto trailer camps may be established and may be established and maintained in this city.

Section 14-18. Person in charge, office and camp register generally.

- (a) The owner or operator of every trailer camp, before allowing any auto trailers therein, shall file with the chief of police and city clerk the name of the person who will be in continuous responsible charge of such camp, and who is authorized to act for him. Any change in such person in charge shall be immediately reported to the above-mentioned officers.
- (b) In every auto trailer camp there shall be an office building in which shall be located the office of the person in charge of such camp. The camp register shall at all times be kept in such office.

Section 14-19. Duties of owner, operator, etc.

It shall be the duty of the owner, operator or person in charge of any auto trailer camp:

- (a) To keep at all times a register of all person staying in his camp, which register shall at all times be open to the officers of the city and which register shall record the names and home addresses of all person staying in such auto trailer camp, the date of their arrival, date of their departure, the number a of and state in which the driver's license of such person was issued, the license number of all auto trailers and automobiles in such camp, the name of the state or county in which there are registered, the trailer unit on which each is located and the place at which the last overnight stop was made;
- (b) To maintain such camp in a clean, orderly and sanitary condition at all times;
- (c) To allow no more than one auto trailer and one automobile on any one trailer unit at any/one time;
- (d) To require that all such auto trailers and automobiles are located on their respective units as required by the terms of this chapter;
- (e) To require all toilets in every auto trailer in such camp to be connected to the camp sewer or in case any such toilet is so constructed that it cannot be so

connected, to require it to be sealed so that it cannot be used during the total time it shall remain in such camp;

- (f) To require every sink and every lavatory in any auto trailer in such camp to be connected to the camp sewer during its entire stay in such camp;
- (g) To see that all required lights are kept lighted as provided in this chapter;
- (h) To see that all garbage is drained and wrapped as required by this Code or other ordinance and deposited in the garbage cans required by section 14-38(I) and to see that all garbage cans are collected, cleaned and redistributed as required by such Section 15-38(I);
- (i) To permit no domestic animal in such camp unless such animal is kept on a leash or is confined in an adequate enclosure;
- (j) To report promptly to the proper authorities any violations of law which may come to his attention.
- (k) To see that no person overstays his legal limit of residence in such camp; and
- (l) To post in a waterproof holder in a conspicuous place in each trailer unit a copy of this section.

Section 14-20. Fire protection equipment.

- (a) Every auto trailer camp shall be provided with one or more standpipes not less than one and one-half inches in diameter and such standpipes shall be provided with one and one-half inch fire hose of such lengths that every part of such auto trailer camp may be reached therewith and such hose shall be equipped with a standard nozzle. All such hose shall be kept on a reel or rack, protected from the weather, and shall be used for no purpose other than fire protection.
- (b) Every auto trailer camp shall be provided with not less than two acid and soda, two and one-half gallon fire extinguishers located as directed by the chief of the fire department.

Division 2. Design Standards.

Section 14-21. Access to street, roadways and walkways.

- (a) Every auto trailer camp shall have access to a public street either by abutting directly on such street or by means of a private road for its full length shall be a walkway not less than three feet wide and raised six inches above such roadway. Such roadway from the street line in and every road required by the terms of this chapter within any auto trailer camp shall be paved or constructed in a manner suitable to the city engineer.
- (b) Roadways not less than ten feet wide shall be provided in every auto trailer camp so located that each trailer unit shall have direct access thereto.

Section 14-22. Camp area generally.

The entire area of every auto trailer camp, exclusive of roadways, well-maintained lawns and planted areas, shall be thoroughly graveled or paved.

Section 14-23. Fence required.

Every auto trailer camp shall be surrounded on all sides, except those sides directly abutting a public street, with a fence not less than six feet high constructed and maintained so as to effectively prevent the passage of persons. There shall be no opening or gate in such fence except with the written approval of the owner of the immediately adjoining land, which approval shall be filed with the city council.

Section 14-24. Area and width of trailer units; trailer unit boundaries to be marked.

Each trailer unit in every auto trailer camp shall contain less than six hundred square feet of ground and shall not be less than twenty-five feet in minimum width measured at right angles to the sidelines thereof. The boundary lines of every trailer unit shall be plainly and permanently marked or otherwise indicated.

Section 14-25. Setback requirements.

The setbacks established by the Building Code and other city ordinance shall apply equally to trailer units and to buildings of the same outside dimensions.

Section 14-26. Location of trailer, etc., on trailer unit.

There shall be not less than five feet between any part of any auto trailer and any boundary line of the trailer unit on which it is located. No automobiles or tow cars parked on any trailer unit shall extend beyond the boundaries of such unit.

Division 3. Required facilities.

Section 14-27. Sewer connections.

On each trailer unit in an auto trailer camp there shall be a connection to a camp sewer arranged so that the sanitary fixtures in any auto trailer may be readily connected thereto. Immediately after being placed on a trailer unit, every auto trailer shall have all its sanitary fixtures connected to such sewer or sealed so that they cannot be used. Every such connection shall be by means of rigid pipe. Hose connections are not permissible.

Section 14-28. Water supply generally.

On each trailer unit in an auto trailer camp there shall be an ample supply of water for use of the occupants thereof. There shall be two outlets on such service, both of which shall be adapted for hose connection.

Section 14-29. Toilets and urinals, toilet and urinal rooms.

In every auto trailer camp there shall be provided not less than one public toilet for each sex and for every ten trailer units or fraction thereof. In addition thereto, there shall be one urinal for every ten trailer units. All toilet and urinal rooms shall have hard, smooth finished, cement floors and shall have wall plastered with Portland cement plaster with a polished steel trowel finish. All corners shall be rounded with a fillet of not less than one-half inch radius. Walls and floors may be finished in nonabsorbent tile in lieu of the cement finish specified above.

Section 14-30. Bath tubs and showers; bath rooms.

In every auto trailer camp there shall be provided one bathtub or stall shower for each sex for every ten trailer units or fraction thereof. All such baths shall be provided at all times with an ample supply of hot and cold water. Bathrooms shall be constructed as specified for toilet rooms in Section 14-29. All bathrooms shall be supplied with adequate heating equipment maintained in proper operation conditions.

Section 14-31. Laundry trays and lavatories.

In every auto trailer camp there shall be provided not less than one double compartment laundry tray and one lavatory for every ten trailer units, and all of such fixtures shall be at all times provided with an ample supply of hot and cold water. All such fixtures shall be installed in rooms constructed as specified for toilet rooms in Section 14-29.

Section 14-32. Sinks and slop sinks.

In every auto trailer camp there shall be provided not less than one sink and one slope sink for every ten trailer units, and such fixtures shall be supplied with an adequate supply of hot and cold water.

Section 14-33. Proximity of trailer units to required sanitary fixtures.

No trailer unit shall be more than two hundred feet from any of the sanitary fixtures required by this division to serve such trailer unit.

Section 14-34. Concrete or tile floor required under, etc., certain fixtures.

Under and around every laundry tray sink, lavatory and slop sink required by this division there shall be a concrete or tile floor and such floor shall extend three feet in all directions beyond such fixture.

Section 14-35. Garbage cans.

Every trailer unit in an auto trailer camp shall be provided with a substantial covered garbage can as required by this Code and other ordinances for residences in the city. Such garbage can shall be kept on a concrete pavement not less than three feet square and four inches thick, with a smooth troweled top. In every auto trailer camp all such garbage cans shall be collected at one convenient place prior to garbage collection time on each day which garbage is collected in that district. Immediately after the garbage has been collected, all such cans shall be carefully cleaned and returned to their respective trailer units.

Section 14-36. Incinerator.

Every auto trailer camp shall be provided with a masonry incinerator, of a size suitable to handle the combustible wastes of such camp, and located as directed by the chief of the fire department.

Section 14-37. Wash rack.

In every auto trailer camp where automobiles or trailers are washed or are to be washed, there shall be installed a wash rack and no such washing shall be done except on such wash rack. All such wash racks shall be paved with a continuous concrete floor slab not less than fifteen feet by twenty-five feet by four inches thick and all parts there of shall slope toward a drain so connected as to dispose of all waste water without nuisance or creation of an unsanitary condition.

Section 14-38. Lighting in public rooms, etc.

Every public toilet and every public urinal room in auto trailer camps shall be lighted from one-half hour after sunset of each day until one-half hour before sunrise of the succeeding day. Such lighting shall be provided in an amount of not less than one-half watt per square foot of floor area in any such room. Every public bath, laundry tray, sink and slope sink shall be supplied with lights which may be turned on by the person using such room.

Section 14-39. Electric service outlets for trailer units.

Every trailer unit in an auto trailer camp shall be furnished with an electric service outlet. Such outlet shall be equipped with an externally operated switch, and a heavy-duty outlet receptacle.

CHAPTER 15

An ordinance imposing and levying a tax on the privilege of purchasing, using or consuming public utility services or tangible personal property supplied by public utilities; defining terms; fixing the amount of such tax; providing for the collection of such tax and the method of payment and accounting thereof to the municipality; specifying effective date of ordinance; requiring approbation and records and authorizing inspections of records; providing exemptions; specifying non-liability of public utilities and duties of the municipality; requiring refund claims to be presented to the municipality; authorizing rules and regulations; establishing remedies and criminal penalties for violations of the ordinance; making requiring notice to public utilities; and providing a severability clause.

Be it ordained by the Council of the Town of Hamlin, West Virginia

That an excise tax upon the privilege of purchasing, using or consuming within the corporate limits of this municipality any public utility service and tangible personal property supplied by and public utility subject to the jurisdiction of the Public Service Commission of West Virginia (whether such public utility be privately or municipally owned or otherwise owned by any type of governmental entity) is hereby imposed and levied as follows:

Section 15-1. Definitions

The following words and phrases when used in this ordinance shall for the purposes of this ordinance have the following respective meanings:

- (a) "Person" includes individuals, firms, partnerships, associations, corporations and combinations thereof, of whatever form or character;
- (b) "Public utility service" means all services and tangible personal property purchased within this municipality from a seller, as therein after in this section defined, namely, telephone service; electric service, gas service, including bottled or liquid gas, if the seller thereof is classified as a public utility subject to the jurisdiction of the Public Service Commission of West Virginia; water service and sanitary sewer service; if purchased, used or consumed within the corporate limits of this municipality;
- (c) "Purchaser" includes every person who purchases, used or consumes a public utility service;
- (d) "Seller" includes every person, whether a public service corporation, a municipality or private corporation, classified as a public utility and subject to the jurisdiction of the Public Service Commission of West Virginia, who sells, furnishes or supplies a public utility service; and

- (e) "User" means the owner or tenant of private residential property or the owner or tenant of property used for commercial or industrial purposes, and every combination thereof, or very kind or description.

Section 15-2. Imposition and Levying of tax: amount of tax.

There is hereby imposed and levied upon each and every purchaser of a public utility service an excise tax upon the privilege of purchasing, using or consuming, within the corporate limits of this municipality, such public utility service. Such tax shall be in the amount of two percent of the charge (exclusive of any federal or state tax thereon imposed upon the purchaser) made by the seller against the purchaser with respect to each public utility service, which tax in every case shall be collected by the seller and paid by the purchaser upon the amount of each periodic statement rendered such purchaser by the seller, and shall be paid by the purchaser to the seller at the time the purchase price or such charge shall become due and payable under the agreement between the purchaser and the seller. The tax imposed and levied by this ordinance is in addition to all other taxes imposed and levied by this municipality. In the event the amount of the charge for any single public utility service exceeds the sum of twenty-thousand dollars (\$20,000.00) in any given calendar month, to any single purchaser, no tax shall be imposed for such additional purchase, use or consumption in excess of said amount of twenty-thousand dollars (\$20,000.00). In the even more than one public utility shall furnish the identical public utility service to the same purchaser, said purchaser shall be entitled to group the same as a single public utility service in calculating the amount of the charges in any calendar month for such public utility service.

Section 15-3. Collection: Time of Payment: Accounting: Effective Date of Ordinance:
Proration

It shall be the duty of every seller in acting as the tax collecting medium or agency for this municipality to collect from each purchaser for the use of this municipality the tax hereby imposed and levied at the time of collecting the purchase price charged for its public utility service, and the amount of tax actually collected during each calendar month shall be reported by each seller to this municipality and each seller shall remit the amount of tax shown by said report to have been collect to this municipality on or before the last day of the first calendar month following the month in which collected, together with the name and address of any purchaser who has failed or refused to pay the tax so imposed and levied. The tax imposed and levied by the ordinance shall apply to periodic statements rendered after July one, one-thousand nine-hundred seventy-one for public utility service rendered subsequent to July one, one-thousand nine-hundred seventy-one, and when any such periodic statement covers public utility service rendered both before and after said date, only that portion of the charge for public utility service rendered after said date shall be subject to such tax, and the portion subject to such tax shall be such portion of the total charge as number of days

after June thirty, one-thousand nine-hundred seventy-one, within the period covered by such periodic statement, bear to the total number of days covered by such periodic statement. The required reports shall be in the form prescribed by the official of this municipality charged with the responsibility of collecting taxes due this municipality.

Section 15-4. Records; Inspection thereof.

Each and every seller shall keep and maintain complete records showing all purchases of public utility service within the corporate limits of this municipality, which records shall show the charge made against each purchaser, the dates such public utility service was furnished, the date of payment therefor, and the amount of tax imposed hereunder, and such records shall be kept open for inspection by the duly authorized agents of this municipality at reasonable times, and the duly authorized agents of this municipality shall have the right, power and authority to make at the expense of this municipality such transcripts thereof during such times as they may desire.

Section 15-5. Exemptions.

The tax hereby imposed and levied shall not apply to the following transactions, which transactions are hereby exempted from such tax:

- (a) Purchases of public utility service resale;
- (b) Purchases of public utility service by the United States of America, the State of West Virginia, and the political subdivisions, municipalities, boards, commissions, authorities and public corporations thereof;
- (c) Purchases of tangible personal property such as appliances or the like, as distinguished from the public service supplied;
- (d) Charges for telephone services which are paid by the insertion of coins into coin-operated telephones, and specific charges or tolls for telephone calls to points outside the corporate limits of this municipality; and
- (e) Non-recurring or one-time charges incidental to the furnishing of public utility service.

Section 15-6. Non-liability of Utility; Duty of Municipality; Refunds; Rules and Regulations.

There shall be no liability upon the seller for erroneously collecting the tax hereby imposed and levied or for erroneously failing to bill for such tax as a result of a good faith mistake on the part of the seller. When any purchaser contends that such tax is not owed by such purchaser on the ground that the public utility

service was not purchased, used or consumed within the corporate limits of this municipality, the seller shall refer the question to the official of this municipality charged with the responsibility of collecting taxes due to this municipality, and such seller shall thereafter collect or refrain from collecting such tax purchaser for such public utility service as instructed in writing to do by such officials of this municipality. Any and all claims for refunds of any such tax shall be presented to this municipality and not to the seller.

The official of this municipality charged with the responsibility of collecting taxes due this municipality shall have the authority to promulgate and enforce reasonable rules and regulations necessary for the administration and enforcement of this ordinance.

Section 15-7. Enforcement Provisions; Penalties.

Any amount of tax due and unpaid under this ordinance shall be a debt due this municipality. It shall be a personal obligation of the purchaser which shall be enforceable as provided in Section Fifteen, Article Thirteen, Chapter Eight of the Code of West Virginia, one-thousand nine-hundred thirty-one, as amended, or in any other manner now or hereafter provided by law for compelling the payment of taxes due municipalities.

Any purchaser failing or refusing to pay the tax thereby imposed and levied and any seller or purchaser violating any of the provisions hereof or any lawful rule and regulation promulgated hereunder shall be guilty of a misdemeanor, and upon conviction thereof, shall be fined not more than one-hundred dollars. The failure or refusal to pay the tax for public utility service purchased, used or consumed during different periodic statement periods shall constitute a separate and distinct offense.

Section 15-8. Notice to Utilities.

The tax hereby imposed and levied shall not be effective until this municipality gives sixty days written notice by certified mail of the effective date of the ordinance to any public utility doing business within this municipality which is required to collect the tax imposed and levied hereby.

Section 15-9. Severability.

If any provision of this ordinance or the application thereof to any person or circumstance is held unconstitutional or invalid, such unconstitutionality or invalidity shall not affect other provisions or applications of this ordinance and to this end the provisions of this ordinance are hereby declared to be severable.

CHAPTER SIXTEEN

An Ordinance Regulating Mobile Homes in the Town of Hamlin, West Virginia

Be it ordained by the Common Council of the Town of Hamlin, Lincoln County, West Virginia, that the following Ordinance be enacted to read as hereinafter set out.

Section 16-1 Definitions:

"Mobile Home – any vehicle, including equipment should as a part of a vehicle, Which is more than 25 feet in length which can be used as a conveyance upon streets by either self-propelled or non-self-propelled means, and which is designed, constructed, re-constructed or structurally altered in such manner that it can be used for living purposes."

Section 16-2 Restrictions or special exception requirements for Mobile Homes.

Minimum Lot Area – Not less than 3,000 square feet will be required for each Mobile Home; however, if Mobile Home is placed on a lot with a hour or another Mobile Home, 3,000 square feet will be required, for any additional Mobile Home units or dwellings.

Parking Spaces – Every Mobile Home is required to have one off street parking space, of hard service material. Every Mobile Home shall have access to a public street either by abutting directly on such street or by means of a private road. All Mobile Homes must be placed at least 5 feet from the property line.

Disposal of all waste from showers, toilets, sinks, bathtubs and laundries shall be discharged into the public sewer system of the Town and each Trailer thereon shall have a separate sewer tap into the main public sewer. All Trailers shall have a separate water tap.

Section 16-3 Permit required

It shall be unlawful for any person to establish, maintain, and operate within the Town any Mobile Home for any reason unless such person shall first obtain a permit from the Town Recorder at a cost of \$10.00.

Section 16-4:

All Mobile Homes that are in existence at the time of this Ordinance will remain, however, when the owners of the property dies or sells he will be subject to removal unless he can meet the requirements of this Ordinance.

Section 16-5 Violations.

Violation of this Ordinance will be subject to a \$25.00 (Twenty-five Dollars) fine plus \$5.00 per day until violation is corrected.

Two (2) Trailers constitute a Trailer Park.

6-3-2013

Council voted to
turn all flood
plain management
over to the county.

(JB)

CHAPTER 17 ESTABLISHING A FLOOD PLAN AREA.

AN ORDINANCE ESTABLISHING A FLOOD PLAIN AREA AND REQUIRING ALL PERSONS, PARTNERSHIPS, BUSINESSES, AND CORPORATIONS TO OBTAIN A PERMIT FOR DEVELOPMENT OF ANY BUILDING OR STRUCTURE; PROVIDING FOR CERTAIN MINIMUM STANDARDS FOR CONSTRUCTION WITHIN THE FLOOD PLAIN AREA AND SETTING FORTH SPECIAL PROCEDURES FOR SUBMISSION AND APPROVAL OF PLANS; AND ESTABLISHING PENALTIES FOR ANY PERSON WHO FAILS TO COMPLY WITH THE REQUIREMENTS OR PROVISIONS OF THIS ORDINANCE.

BE IT ENACTED AND ORDAINED by the Town of Hamlin, Lincoln County,

ARTICLE I – GENERAL PROVISIONS

Section 17-1 Intent

The intent of this Ordinance is to:

- A. Promote the general health, welfare, and safety of the community.
- B. Encourage the utilization of appropriate construction practices in order to prevent or minimize flood damage in the future.
- C. Minimize danger to public health and safety by protecting water supply, sanitary sewage disposal, and natural drainage.
- D. Reduce financial burdens imposed on the community, its governmental units and its residents, by preventing the unwise design and construction of development in areas subject to flooding.

Section 17-2 Abrogation and Greater Restrictions

This Ordinance supersedes any ordinances currently in effect in flood prone areas. However, any ordinance shall remain in full force and effect to the extent that its provisions are more restrictive.

Section 17-3 Applicability

It shall be unlawful for any person, partnership, business, or corporation to undertake or cause to be undertaken, any development or the new construction, substantial improvement, the placement or relocation of any structure (including manufactured homes) within the Flood Plain Area, unless a permit has been obtained from the Permit Officer. In addition, where land is to be subdivided, utilized for a manufactured home park or subdivision or otherwise developed, a

site plan must be submitted to, and approved by, the Permit Officer prior to any development.

Provisions of all other codes, ordinances, and regulations shall be applicable insofar as they are consistent with the provisions of this Ordinance and the community's need to minimize the hazards and damage resulting from flooding.

ARTICLE II - DEFINITIONS

Section 17.4 Definitions

Base Flood

The flood which has been selected to serve as the basis upon which the flood plain management provisions of this and other ordinances have been prepared; for the purpose of this Ordinance, the one-hundred (100) year flood.

Basement

Any area of the building having its floor subgrade (below ground level) on all sides.

Development

Any man-made change to improved or unimproved real estate, including not limited to buildings or other structures, mining dredging, filling, grading, paving, excavation or drilling operations.

Flood

A general and temporary inundation of normally dry land areas.

Flood Plain

- (1) a relatively flat or low land area adjoining a river, stream, or watercourse which is subject to partial or complete inundation;
- (2) an area subject to the unusual and rapid accumulation or runoff of surface waters from any source.

Floodway

The channel of a river or other watercourse and the adjacent land area that must be reserved to discharge the base flood without increasing the water surface elevation of that flood more than one foot at any point.

Floodproofing

Any combination of structural and non-structural additions, changes or adjustments to structures which reduce or climate flood damage to real estate or improved real property, water and sanitary facilities, structures, and their contents.

Lowest Floor

The lowest floor of the lowest enclosed area (including basement). An unfinished or flood resistant enclosure, usable solely for parking of vehicles, building access or storage in an area other than a basement area is not considered a building's lowest floor; Provided, that such enclosure is not built so as to render the structure in violation of the applicable non-elevation design requirements of this ordinance.

Manufactured Home

A structure, transportable in one or more sections, which is built on a permanent Chassis and is designed for use with or without a permanent foundation when connected to the required utilities. The term also includes park trailers, travel trailers, and other similar vehicles placed on a site for greater than 180 consecutive days.

Manufactured Home Park or Subdivision

A parcel (or contiguous parcels) of land divided into two or more manufactured home lots for rent or sale.

New Construction

Structures for which the start of construction as herein defined commenced on or after the effective date of this Ordinance.

One-Hundred (100) Year Flood

A flood that has one chance in one hundred or a one percent chance of being equaled or exceeded in any given year.

Person

Any individual or group of individuals, corporations, partnership, association or other entity, including State and local governments and agencies.

Principally Above Ground

Where at least 51 percent of the actual cash value of a structure, less land value, is above ground.

Start of Construction

The first placement of permanent construction of a structure on a site, such as the pouring of slab or footings, the installation of piles, the construction of columns, or any work beyond the stage of excavation; or the placement of a manufactured home on a foundation. Permanent construction does not include land preparation, such as clearing, grading and filling; nor does it include the installation of streets and/or walkways; nor does it include the installation on the property of accessory buildings, such as garages or sheds not occupied as dwelling units or not part of the main structure.

Structure

A walled and roofed building including a gas or liquid storage tank that is principally above ground, as well as a manufactured home.

Substantial Improvement

Any repair, reconstruction, or improvement of a structure, the cost of which equals or exceeds 50 percent of the market value of the structure either:

- (a) before the improvement or repair is started or
- (b) if the structure has been damaged, and is being restored, before the damage occurred.

For the purposes of this definition "substantial improvement" is considered to occur when the first alteration of any wall, ceiling, floor, or other structural part of the building commences, whether or not that alteration affects the external dimension of the structure. The term does not, however, include either:

- (a) any project for improvement of a structure to comply with existing state or local health, sanitary, or safety code specifications which are solely necessary to assure safe living conditions or
- (b) any alteration of a structure listed of the National Register of Historic Places of a State Inventory of Historic Places.

ARTICLE III - ESTABLISHMENT OF THE FLOOD PLAIN AREA

Section 17-5 Identification

The identified floodplain area shall be those areas of the Town of Hamlin, which are subject to the one hundred (100) year flood, as shown on the Flood Insurance Rate Map (FIRM) which accompanies the Flood Insurance Study (FIS) prepared

for the Town of Hamlin by the Federal Emergency Management (FEMA) dated September 4, 1987, or the most recent revision thereof.

Section 17.6 Description of Floodplain Areas

The identified floodplain area shall consist of the following three specific areas:

- (a) The Floodway area shall be those areas identified as such in the FIS and as shown on the FIRM. The term shall also include floodway areas identified in other studies for the approximated area discussed in Section C below.
- (b) The Floodway Fringe area shall be those areas for which specific one hundred (100) year flood elevations have been provided in the FIS but which lie beyond the Floodway area. These areas are shown on the FIRM.
- (c) The Approximated area shall be those areas identified as the A Zone on the FIRM and for which no one hundred (100) year flood elevations have been provided. For these areas, elevation and floodway information from other Federal, State or other acceptable source shall be used when available. Where other acceptable information is not available, the elevation shall be determined by using the elevation of a point on the boundary of the identified floodplain area which is nearest the construction site. The Town of Hamlin may require the applicants to determine the elevation with hydrologic and hydraulic engineering techniques. Hydrologic and hydraulic analyses shall be undertaken only by professional engineers or others of demonstrated qualifications, who shall certify that the technical methods used correctly reflect currently accepted technical concepts. Studies, analyses, computations etc., shall be submitted in sufficient detail to allow a thorough technical review by the Town of Hamlin.

Section 17.7 Changes in Designation of Area

The delineation of the identified flood plain area may be revised by the Town of Hamlin where natural or man-made changes have occurred and/or more detailed studies conducted or undertaken by the U.S. Army Corps of Engineers, a River Basin Commission or other qualified agency or individual document the necessity for such changes. However, prior to any such change, approval must be obtained from the Federal Insurance Administration (FIA).

Section 17.8 Boundary Disputes

Should a dispute concerning any district boundary arise, an initial determination shall be made by the Permit Officer and any party aggrieved by this decision may appeal to the Town Council. The burden of proof shall be on the appellant.

ARTICLE IV – UTILIZATION OF THE FLOODPLAIN AREA

Section 17-9

In the Floodplain Area any development and/or use of land may be permitted provided that all such uses, activities, and/or development shall be undertaken in strict compliance with the floodproofing and related provisions contained herein and in all other applicable codes, ordinances and regulations.

Section 17-10

Within any floodway area, no development shall be permitted that would cause any increase in the one hundred year flood elevation.

Section 17-11

Whenever a developer intends to alter or relocate a watercourse within the Floodplain Area, the developer shall notify in writing by certified mail all adjacent communities and the State Coordinating Office of all such intended activities prior to any alteration or relocation of the watercourse, and shall submit copies of such notification to the Federal Insurance Administrator. The developer shall also assure Town of Hamlin in writing, that the flood carrying capacity within the altered or relocated portion of the watercourse in question will be maintained.

ARTICLE V – CRITERIA FOR BUILDING AND SITE PLAN APPROVAL

Section 17-12 General

Building Permits are required in order to determine whether all new construction or substantial improvements are:

- (1) designed (or modified) and adequately anchored to prevent flotation, collapse, or lateral movement of the structure resulting from hydrodynamic and hydrostatic loads, including the effects of buoyancy.
- (2) constructed with materials and utility equipment resistant to flood damage.
- (3) constructed by methods and practices that minimize flood damage.
- (4) constructed with electrical, heating, ventilation, plumbing and air conditioning equipment and other service facilities that are designed and/or located so as to prevent water from entering or accumulating within the components during conditions of flooding.

Section 17.13 Basic Format

The basic format of the Building Permit shall include the following:

- (1) Name and address of applicant.
- (2) Name and address of owner of land on which proposed construction is to occur.
- (3) Name and address of contractor.
- (4) Site location.
- (5) Brief description of proposed work and estimated cost.
- (6) A plan of the site showing the exact size and location of the proposed construction as well as any existing buildings or structures.

Section 17-14 Elevation and Floodproofing Information

Depending on the type of structure involved, the following information shall also be included in the application for work within the Flood Plain Area:

A. For structures to be elevated to the Base Flood Elevation:

- (1) A plan showing the size of the proposed structure and its relation to the lot where it is to be constructed.
- (2) A determination of elevations of the existing ground, proposed finished ground and lowest floor, certified by a Registered Professional Engineer, Surveyor or Architect.
- (3) Plans showing the method of elevating the proposed structure, includes details of proposed fills, pile structures, retaining walls, foundation, corrosion protection measures, etc. When required by the Permit Officer, these plans shall be prepared by a Registered Professional Engineer or Architect.
- (4) Plans showing the methods used to protect utilities (including sewer, water, telephone, electric, gas, etc.) from flooding to the Base Flood Elevation at the building site.

B. For structures to be floodproofed to the Base Flood Elevation (nonresidential structures only):

- (1) Plans showing details of all floodproofing measures, prepared by a Registered Professional Engineer or Architect, and showing the size of the proposed structure and its relation to the lot where it is to be constructed.
- (2) A determination of elevations of existing ground, proposed finished ground, lowest floor, and floodproofing limits; certified by a Registered Professional Engineer, Surveyor, or Architect.
- (3) A certificate prepared by the Registered Professional Engineer or Architect who prepared the plans in 1) above, that the structure in

question, together with attendant utility and sanitary facilities is designed so that:

- a. below the Base Flood Elevation the structure is watertight with walls substantially impermeable to the passage of water.
- b. the structure will withstand the hydrostatic, hydrodynamic, buoyant, impact, and other forces resulting from the flood depths, velocities, pressures, and other factors associated with the Base Flood.

Section 17-15 Site Plan Criteria

The owner or developer of any proposed subdivision, manufactured home park or subdivision or other development shall submit a site plan to the Permit Officer which includes the following information:

- (1) Name of engineer, surveyor, or other qualified person responsible for providing the information required in this section.
- (2) A map showing the location of the proposed subdivision and/or development with respect to the municipality's flood plain areas, proposed lots and sites, fills, flood or erosion protective facilities and areas subject to special deed restriction. In addition, it is required that all subdivision proposals and other proposed new developments greater than 50 lots or five (5) acres, whichever is the less, shall include base flood elevation data.
- (3) Where the subdivision and/or development lies partially or completely in the flood plain areas, the map shall include detailed information giving the location and elevation of proposed roads, public utilities and building sites. All such maps shall also show contours at intervals of two (2) or five (5) feet depending upon the slope of the land and identify accurately the boundaries of the flood plain areas.

ARTICLE VI - SPECIFIC REQUIREMENTS

Section 17-16 Design and Construction Standards

In order to prevent excessive damage to buildings, structures and related utilities and facilities, the following restrictions apply to all development, subdivision proposals, manufactured home parks, new construction and to construction of the substantial improvements to existing structures occurring in the Flood Plain Area.

A. Basements and Lowest Floors

- (1) All new construction and substantial improvements of residential structures must have the lowest floor (including basement) elevated to or above the Base Flood Elevation. All new construction and substantial improvements of non-residential structures must have the lowest floor (including basement) elevated to or above the Base Flood Elevation; or, together with attendant utility and sanitary facilities, be designed so that below the Base Flood Elevation the structure is floodproofed in accordance with Section 5.3b.

- (2) For all new construction and substantial improvements, those fully enclosed areas below the lowest floor that are subject to flooding shall be designed to automatically equalize hydrostatic flood forces on exterior walls by allowing for the entry and exit of floodwaters. Designs for meeting this requirement must either be certified by a registered professional engineer or architect or meet or exceed the following minimum criteria:
 - a. A minimum of two openings having a total net area of not less than one square inch for every square foot of enclosed area subject to flooding shall be provided.
 - b. The bottom of all openings shall be no higher than one foot above grade.
 - c. Openings may be equipped with screens, louvers, valves, or other coverings or devices provided that they permit the automatic entry and exit of floodwaters.
- (3) Manufactured homes shall be elevated on a permanent foundation so that the lowest floor of the manufactured home will be at or above the Base Flood Elevation.

B Fill

If fill is used to raise the finished surface of the lowest floor to the Base Flood Elevation:

- (1) Fill shall extend beyond a structure for a sufficient distance to provide acceptable access. For residential structures, fill shall extend laterally fifteen (15) feet beyond the building line from all points. For non-residential structures, fill shall be placed to provide access acceptable for intended use. At grade access, with fill extending laterally fifteen (15) feet beyond the building line, shall be provided to a minimum of twenty-five (25) percent of the perimeter of a non-residential structure.
- (2) Fill shall consist of soil or rock materials only. Sanitary land fills shall not be permitted.
- (3) Fill materials shall be compacted to provide necessary stability and resistance to erosion, scouring, or settling.
- (4) Fill slopes shall be no steeper than one (1) vertical on two (2) horizontal, unless substantiating data justifying steeper slopes are submitted to and approved by the Permit Officer.
- (5) Fill shall be used only to the extent to which it does not adversely affect adjacent properties.

C Placement of Buildings

All buildings and structures shall be constructed and placed on the lot so as to offer the minimum obstruction to the flow of water and shall be

designed to have a minimum obstruction effect upon the flow and height of floodwater.

D. Anchoring

- (1) All buildings and structures shall be firmly anchored in accordance with accepted engineering practices to prevent flotation, collapse, and lateral movement, thus reducing the threat to life and property and decreasing the possibility of the blockage of bridge openings and other restricted sections of the watercourse.
- (2) All air ducts, large pipes and storage tanks located at or below the Base Flood Elevation shall be firmly anchored to resist flotation. All manufactured homes shall be anchored to resist flotation, collapse, or lateral movement. Methods of anchoring may include but are limited to the over-the-top and frame ties to ground anchors such as the following:
 - a. over-the-top ties shall be provided at each of the four corners of the manufactured home, with two additional ties per side for manufactured homes less than 50 feet long.
 - b. frame ties shall be provided at each corner of the home with five additional ties per side at intermediate points, with manufactured homes less than 50 feet long requiring four additional ties per side.
 - c. all components of the anchoring system shall be capable of carrying a force of 4,800 pounds.
 - d. any additions to a manufactured home shall be similarly anchored.

This requirement is in addition to applicable State and local anchoring requirements for resisting wind forces.

E. Storage

No materials that are buoyant, flammable, explosive, or in times of flooding could be injurious to human, animal or plant life, shall be stored below Base Flood Elevation.

F. Utility and Facility Requirements

- (1) All new or replacement water systems whether public or private, shall be designed to minimize or eliminate infiltration of flood waters into the systems.
- (2) All new or replacement sanitary disposals systems, whether public or private, shall be designed to minimize or eliminate infiltration of flood waters into the systems and discharges from the systems into flood waters.

- (3) All other new or replacement public and/or private utilities and facilities shall be located and constructed to minimize or eliminate flood damage.
- (4) Onsite waste disposal systems shall be located to avoid impairment to them or contamination from them during flooding.

G. Drainage

Adequate drainage shall be provided to reduce exposure to flood hazard.

ARTICLE VII – ADMINISTRATIONS

Section 17-17 Building Permits and Site Plan Approvals Required

It shall be unlawful for any person, partnership, business or corporation to undertake or cause to be undertaken, any development or the new construction, substantial improvement, the place or relocation of any structure (including manufactured homes) within the Flood Plain Area, unless a permit has been obtained from the Permit Officer. In addition, where land is to be subdivided, utilized for a manufactured home park or subdivision or otherwise developed, a site plan must be submitted to, and approved by, the Permit Officer prior to any development.

Section 17-18 Approval of Permits and Plans

All permits and plans shall be approved only after it has been determined that the proposed work to be undertaken will be in conformance with the requirements of the State and all other applicable codes and ordinances.

The Permit Officer shall require copies of all necessary permits from those governmental agencies from which approval is required by Federal or State law.

A record of all information supplied to the Permit Officer shall be kept on file by the Town of Hamlin.

Section 17-19 Application Procedures

Application for building permits and site plan approvals shall be made, in writing, to the Permit Officer, and shall include all information stipulated under Article V of this Ordinance.

Section 17-20 Changes

After the issuance of a building permit or site plan approval by the Permit Officer, no changes of any kind shall be made to the application, permit, or any of the plans, specifications or other documents submitted with the application without the written consent or approval of the Permit Officer.

Section 17-21 Placards

In addition to the building permit, the Permit Officer shall issue a placard which shall be displayed on the premises during the time construction is in progress. This placard shall show the number of the building permit, the date of its issuance and be signed by the Permit Officer.

Section 17-22 Start of Construction

Work on the proposed construction shall begin within six (6) months after the date of the issuance of the building permit or the permit shall expire unless a time extension is granted, in writing, by the Permit Officer.

Section 17-23 Inspection and Revocation

During the construction period, the Permit Officer or other authorized official may inspect the premises to determine that the work is progressing in compliance with the information provided on the permit application and with all applicable laws and ordinances or that there has been a false statement or misrepresentation by any applicant, the Permit Officer shall revoke the building permit and report such fact to the Town of Hamlin for whatever action it considers necessary.

Section 17-24 Fees

Application for a building permit shall be accompanied by a fee, payable to the Town of Hamlin, based upon the estimated cost of the proposed construction as determined by the Permit Officer at the following rates:

<u>Estimated Cost</u>	<u>Fee</u>
\$ 0.00 to 2,000.00	\$ 0.00
\$2,000.00 to 3,000.00	\$ 25.00
Each additional thousand or part thereof	\$ 2.00

ARTICLE VIII – APPEALS AND PENALTIES

Section 17-25 Appeals

Whenever any person is aggrieved by a decision of the Permit Officer with respect to the provision of this Ordinance, it is the right of that person to appeal to the Town Council which shall be known as the Appeals Authority. Such appeal must be filed, in writing, within thirty (30) days after the determination by the Permit Officer. Upon receipt of such appeal, the Appeal Authority shall set a time and place not less than ten (10) nor more than thirty (30) days for the purpose of hearing the appeal. Notice of the time and place of the hearing shall be given to all parties at which time they may appear and be heard. The determination by the Appeals Authority shall be final in all cases.

Section 17-26 Appeal Review Criteria

All appeals contesting only the permit fee established by the Permit Officer may be handled at the discretion of the Appeals Authority. All decisions on appeals to all other provisions of this Ordinance shall adhere to the following criteria:

- (1) Affirmative decisions shall only be issued by the Appeals Authority upon (i) a showing of good and sufficient cause, (ii) a determination that failure to grant the appeal would result in exceptional hardship to the applicant, and (iii) a determination that the granting of an appeal will not result in increased flood heights, additional threats to public safety, extraordinary

public expense, create nuisances, cause fraud on or victimization of the public or conflict with existing local laws or ordinances.

- (2) An affirmative decision shall be issued only upon determination that it is the minimum necessary, considering the flood hazard, to afford relief.
- (3) The Appeals Authority shall notify the applicant in writing over the signature of a community official that (i) the issuance of a decision to allow construction of a structure below the Base Flood Elevation may result in increased premium rates for flood insurance, (ii) such construction below the Base Flood Elevation increases risk to life and property. Such notifications shall be maintained with a record of all decisions as required in paragraph (4) of this section; and
- (4) The Appeals Authority shall (i) maintain a record of all decisions including justification for their issuance, and (ii) report such decision issued in its biennial report submitted to the Federal Insurance Administration.
- (5) No variance shall be granted for any construction, development, use or activity within any floodway area that would cause any increase in the one hundred (100) year flood elevation.

Section 17-27 Penalties

Any person who fails to comply with any or all of the requirements or provisions of this ordinance or direction of the Permit Officer or any other authorized employee of the community shall be guilty of an offense and, upon conviction, shall pay a fine to the Town of Hamlin of not less than fifty dollars (\$50.00) or more than five hundred dollars (\$500.00) plus cost of prosecution. In default of such payment, such person shall be imprisoned in county prison for a period not to exceed 10 days. Each day during which any violation of this Ordinance continues shall constitute a separate offense. In addition to the above penalties, all other actions are hereby reserved including an action in equity for the proper enforcement of this Ordinance. The imposition of a fine or penalty for any violation of, or non-compliance with, this Ordinance shall not excuse the violation or non-compliance with this Ordinance or permit it to continue; and all such persons shall be required to correct or remedy such violations or non-compliances within a reasonable time. Any structure constructed, reconstructed, enlarged, altered or relocated in non-compliance with this Ordinance may be declared by the Town of Hamlin to be a public nuisance and abatable as such.

ARTICLE IX - SEVERABILITY AND MUNICIPAL LIABILITY

Section 17-28 Severability

If any section, subsection, paragraph, sentence, clause, or phrase of this Ordinance shall be declared invalid for any reason whatever, such decision shall not affect the remaining portions of this Ordinance which shall remain in full force and effect, and for this purpose the provisions of this Ordinance are hereby declared to be severable.

Section 17-29 Municipal Liability

The granting of a permit or approval of a subdivision or development plan in an identified flood-prone area, shall not constitute a representation, guarantee, or warranty of any kind by the Town of Hamlin or by any official or employee thereof of the practicability of safety of the proposed use, and shall create no liability upon the Town of Hamlin.

ARTICLE X - ENACTMENT

~~Passed~~ on FIRST READING this the 5th day of December, 1988.

~~Passed~~ on SECOND READING this 3rd day of January, 1989.

TOWN COUNCIL OF THE TOWN OF HAMLIN
LINCOLN COUNTY WEST VIRGINIA

CHAPTER 18 MUNICIPAL SERVICE CHARGE

AN ORDINANCE TO ESTABLISH A MUNICIPAL SERVICE CHARGE FOR THE
PURPOSE OF POLICE PROTECTION, STREET LIGHTING AND STREET
MAINTENANCE WITHIN THE TOWN OF HAMLIN,
WEST VIRGINIA, AND PROVIDING FOR THE RATES OF CHARGES AND THE
COLLECTION OF SUCH FEE

WHEREAS, the Town of Hamlin is empowered by the West Virginia Code, Chapter 8, Article 13, Section 13, to impose by ordinance upon the users of services reasonable rates, fees and charges to be collected in the manner specified in the ordinance for Municipal services; and

WHEREAS, it is the intention of the Council of the Town of Hamlin, West Virginia, to provide for a reasonable fee to be collected from the users of police protection, street lighting and street maintenance within the Town of Hamlin, West Virginia;

Section 18-1 Imposition and Rate; collection directed:

- * There is hereby levied and shall be collected a charge against residential users of Municipal services and business establishments which use Municipal services situated within the Town of Hamlin for essential police protection, street lighting and street maintenance. The charge for such services shall be at the following rates for each single family unit residence, per unit, and for each multiple-family dwelling or apartment house, per each residential unit or apartment, whether or not occupied, and for each business establishment.

Residence	\$ 3.00 per month
Business	\$10.00 per month (as amended July 1, 1996)

- b The Town Clerk shall be charged with the duty of mailing a statement on a monthly or quarterly basis to each person or business establishment to be charged with the Municipal fee hereby imposed for the fee due for the preceding month or quarter, as the case may be, but failure to mail any statement for monthly or quarterly charges shall not be grounds for avoiding payment. A statement shall be mailed by the Clerk at least as frequently as once each quarter, but at the discretion of the Clerk, a statement may be mailed each month and any such statement may be consolidated by the Clerk with statements for other Municipal fees or services due from such person or business establishment. If a monthly statement is mailed by the Clerk, it may be mailed each month on a date selected by the Clerk but the Clerk shall render the monthly billing to such person or business establishment in a uniform manner so that each monthly bill is mailed at intervals of approximately thirty (30) days after the end of the quarter.

c. Subject to such reasonable regulations as may be promulgated by the Town Clerk, the record owner of the property upon which a single family residence is situate shall be presumed to be the user of the Municipal services rendered for the benefit of said property and the record owner shall be liable to the Town of Hamlin for said charges; the tenants or occupants of the residential units of a multi-family dwelling or apartment house shall be presumed to be the users of such Municipal services and shall be liable to the Town for said charges. Persons doing business as partners in a business establishment within the Town of Hamlin shall be jointly and severally liable for said charges. However, in the event that a residential unit of a multi-family dwelling or apartment house is temporarily unoccupied then and in that event the record owner of the property upon which said multi-family dwelling or apartment house is situate shall be presumed to be the user of the residential services provided to each such unoccupied unit and shall be liable to the Town of Hamlin for said charges. Subject to such reasonable regulations as may be promulgated by the Town Clerk, the record owner of the property upon which such multi-family dwelling or apartment house is situate shall be charged with the responsibility of collecting, in advance, charges imposed by this Section from tenants or occupants of such dwelling units or apartments and properly remitting same to said charges for failure to do so or for failure to maintain adequate records from which such liability may be ascertained.

Section 18-2 Report by Town Clerk to Council.

The Town Clerk shall within sixty (60) days after the end of each quarter report to the Town Council a list of all persons and business establishments who are delinquent in the payment of the Municipal service fee or any portion thereof for the preceding fiscal year and the Town Council shall by resolution direct the Town Clerk and other Municipal employees to take such action as the Council deems advisable and necessary in regard to the payment of such delinquent fees.

Section 18-3 Provisions Severable.

The provisions of this ordinance shall be construed as severable and should any section or part thereof be held unconstitutional or for any reason invalid or unenforceable by a Court of competent jurisdiction thereof the unaffected portions hereof shall remain valid and shall be given full force and effect.

This ordinance shall become effective on the 1st day of July, 1989.

This ordinance shall be published in accordance with the provisions of Chapter 8, Article 13, Section 13 of the West Virginia Code.

Any and all ordinances or administrative regulations inconsistent with the provisions hereto are hereby repealed at the time hereinabove specified to the extent necessary to give the provisions of this ordinance full force and effect.

CHAPTER 19 ETHICS IN GOVERNMENT

AN ORDINANCE ADOPTING AND INCORPORATING SELECTED PROVISIONS OF STATE STATUTES ADDRESSING ETHICS IN GOVERNMENT; ESTABLISHING ETHICAL PURPOSES AND REQUIRING THAT ETHICAL PRACTICES ADHERED TO BY MUNICIPAL OFFICIALS AND EMPLOYEES; AND DETERMINING THAT CERTAIN PROVISIONS OF SUCH STATUTE SHALL NOT APPLY TO THIS MUNICIPALITY AND ITS OFFICERS AND EMPLOYERS

WHEREAS, the West Virginia State Legislature passed and enacted H.B. 104 on February 4, 1989, which is primarily embodied by the statutory provisions of Chapter 6B, Articles 1 through 3, of the West Virginia Code, as amended; and,

WHEREAS, the aforesaid Chapter 6B of the West Virginia Code is more particularly known as the West Virginia Government Ethics Act, the purposes of which said Act are contained and set forth in Chapter 6B, Article 1, Section 2 of the West Virginia Code; and,

WHEREAS, the Town now deems it to be reasonable, necessary and appropriate (1) to expressly affirm the aforesaid purposes of the West Virginia Governmental Ethics Act, and, (2) to further incorporate selected provisions of the aforesaid Act as are presently enacted or as hereafter may be enacted by the State Legislature, and further, (3) to affirmatively state that certain provisions of the West Virginia Governmental Ethics Act shall not be effective as to this municipality, and its officers and employees, all through the adoption and implementation of the Town of Hamlin's Municipal Government Ethics Ordinance.

NOW, THEREFORE, BE IT ORDAINED AND ENACTED BY THE COUNCIL OF THE TOWN OF HAMLIN AS FOLLOWS:

ARTICLE I: COUNCIL'S FINDINGS OF FACT

Section 19-1

The Council hereby finds that the purposes of the West Virginia Governmental Ethics Act have reasonable, necessary and appropriate application to matters involving all elected and appointed municipal officials and employees, whether full or part time, who derive a salary, payment of wages or other direct remuneration from the municipality, and does now hereby affirm, ratify and adopt said State defined purposes as being the same purposes of this Municipal Government Ethics Ordinance, without specifically republishing said State purposes herein.

Section 19-2

The Council further hereby finds that for the purpose of assisting in the administration of the provisions of this Ordinance, that various statutory sections of the aforesaid State Act shall be hereby expressly adopted and incorporated as provisions of this Ordinance, except as otherwise expressly provided herein, and which State statutory sections specifically hereby adopted and incorporated herein are as follows: (1) §6B-1-1 through 5; and (2) § 6B-2-5.

Section 19-3

Notwithstanding the affirmation and adoption of the purposes of the State Act and further the specific adoption of the selected, statutory sections which were immediately hereinbefore set forth in Section 2 hereof, the Council specifically finds that certain statutory provisions of the aforesaid State Act are either inapplicable to the administration of the Municipal Ordinance or would otherwise be unduly burdensome for the Town to require and administer, and specifically, the Council finds that the purposes of the State Act and of this Ordinance can be effectively executed at the municipal level without the specific adoption and incorporation of the statutory provisions of Chapter 6B, Article 2, Sections 6 and 7 of the West Virginia Code respecting financial disclosure, and Chapter 6B, Article 3, relating to regulation and registration of lobbyists, and which said statutory provisions of this Ordinance, and affirmatively elects that such provisions shall not apply to this municipality and its officers and employees.

ARTICLE II: AMENDMENTS TO STATE STATUTES

Any amendment to any of the aforesaid statutory provisions of the State of West Virginia which are expressly herein adopted and incorporated as provisions of this Ordinance, shall upon enactment by the State Legislature, pursuant to the State prescribed effective date thereof, be deemed to be an amendment to this Ordinance unless the Town expressly opts not to adopt any such amendment by Ordinance duly adopted by the Council evidencing the non-adoption of such amendments.

ARTICLE III: EFFECTIVE DATE

This Ordinance shall be effective on September 5, 1989.

CHAPTER 20 ALCOHOLIC BEVERAGES IN PUBLIC PLACES

AN ORDINANCE TO PROHIBIT THE USE OF BEER AND ALCOHOLIC BEVERAGES IN PUBLIC PLACES

Be it ordained by the Town Council of the Town of Hamlin, West Virginia, that Section 20 of the Code of said Town is hereby adopted as follows:

Chapter 20

Section 20-1. Use of alcohol in public places prohibited.

It shall be unlawful for any person while in the Town of Hamlin to:

- (1) Appear in a public place in an intoxicated condition.
- (2) Drink alcoholic liquor or beer in a public place.
- (3) Drink alcoholic liquor or beer in a motor vehicle upon street, open space or in a public garage.
- (4) Tender a drink of alcoholic liquor to another person in public.

Upon conviction of an offense of this ordinance, any such person shall be fined no less than Twenty-Five Dollars (\$25.00) and no more than One Hundred Dollars (\$100.00) or imprisoned in the county jail for no longer than thirty days, or both such fine and imprisonment, in the discretion of the Municipal Judge.

This ordinance shall be effective from the date of its final adoption.

CHAPTER 22 ALCOHOLIC BEVERAGES IN PUBLIC PLACES

AN ORDINANCE TO PROHIBIT THE USE OF BEER AND ALCOHOLIC BEVERAGES IN PUBLIC PLACES

Be it ordained by the Town Council of the Town of Hamlin, West Virginia, ~~that~~ Section 22 of the Code of said Town is hereby adopted as follows:

Chapter 22

~~Section~~ 22-1. Use of alcohol in public places prohibited.

It shall be unlawful for any person while in the Town of Hamlin to:

- (1) Appear in a public place in an intoxicated condition.
- (2) Drink alcoholic liquor or beer in a public place.
- (3) Drink alcoholic liquor or beer in a motor vehicle upon street, open space or in a public garage.
- (4) Tender a drink of alcoholic liquor to another person in public.

Upon conviction of an offense of this ordinance, any such person shall be fined no less than Twenty-Five Dollars (\$25.00) and no more than One Hundred Dollars (\$100.00) or imprisoned in the county jail for no longer than thirty days, or both such fine and imprisonment, in the discretion of the Municipal Judge.

This ordinance shall be effective from the date of its final adoption.

**AN ORDINANCE AMENDING CHAPTER 3, ANIMALS AND FOWL,
ADDING PROVISIONS REGARDING: KEEPING FOWL NEAR INHABITED
BUILDING OR PERMITTING THEM TO RUN AT LARGE; KEEPING OF NOISY
FOWL; MAINTENANCE OF PENS, COOPS, ETC.; REMOVAL OF DOGS FROM
PUBLIC GATHERINGS; AMENDING THE PROVISIONS RELATING TO DOGS
RUNNING AT LARGE; and ADDING SPECIFIC PENALTY PROVISION**

Ordinance No. : 2002-02

WHEREAS, the Council of the Town of Hamlin has determined that in order to promote the peace, quiet, health, and safety of the Town's residents, certain amendments to the Town's animal ordinances should be made.

NOW, THEREFORE, BE IT ORDAINED AND ENACTED BY THE COUNCIL OF THE TOWN OF HAMLIN AS FOLLOWS:

The following is Chapter 3 as amended and reenacted. The new and/or amended sections are set forth in their entirety. The remaining sections, unchanged except as to renumbering in Article II, are listed by title only.

ANIMALS AND FOWL

CHAPTER 3.

ARTICLE I. IN GENERAL.

- 3-1. Keeping cattle or swine.
(unchanged)
- 3-2. Noisy cats.
(unchanged)
- 3-3. Slaughterhouses.
(unchanged)

3-4. Birds--Town designated bird sanctuary. (amended replacing Town for "city")

The entire area embraced within the Town is hereby designated as a bird sanctuary.

3-5. Same--Hunting, shooting, etc., birds, etc.
(unchanged)

3-6. Cruelty to animals.
(unchanged)

3-7. Keeping fowl near inhabited building or permitting them to run at large. (new Section)

No person shall keep and kind of poultry, fowl, or pigeon within twenty-five feet of any structure owned by another and used for human habitation, occupation or assembly, whether the structure be in the same or adjacent block or square; nor shall any fowl, poultry or pigeon be permitted by the owner thereof to run, fly, stray or otherwise be at large in the street of the Town or in any lot or premises not in the possession or under the control of the owner of such poultry, fowl, or pigeon.

3-8. Keeping noisy fowl. (new Section)

No person shall own or keep within the Town, any fowl, poultry, pigeon, or bird which shall, by crowing, cackling, or other audible sound, or in any manner whatsoever, disturb the quiet of any neighborhood.

3-9. Maintenance of pens, coops, etc. (new Section)

Each stable, pen, coop, and other enclosure where any animal or fowl is kept shall be so located and of such construction as to have sufficient sanitary drainage to keep it dry at all times; and it shall be the duty of each person owning, harboring or keeping any animal or fowl to maintain such enclosure or other place where such animal is kept in a clean and sanitary condition at all times, free of any unwholesome or offensive substance, liquid or odor and so as not to constitute, in the opinion of the health commissioner, a nuisance.

ARTICLE II. DOGS

- 3-10. Definition.
(unchanged except numbering; formerly Section 3-7)
- 3-11. Inducing, etc., dogs to fight or bark at, frighten, etc. persons, etc.
(unchanged except numbering; formerly Section 3-8)
- 3-12. Vicious dogs.
(unchanged except numbering; formerly Section 3-9)
- 3-13. Noisy dogs.
(unchanged except numbering; formerly Section 3-10).
- 3-14. Muzzling dogs under proclamation of mayor.
(unchanged except numbering; formerly Section 3-11).
- 3-15. Impoundment of dog which has bitten person.
(unchanged except numbering; formerly Section 3-12).
- 3-16. Dogs are not permitted to run at large. (amending and replacing former Section 3-13)

The owner of a dog or a person harboring or keeping a dog shall not allow such dog to roam at large in the Town. The owner of a dog or a person harboring or keeping a dog shall confine such dog at the owner's premises or at the premises of such person harboring or keeping such dog. No person shall take any dog onto the streets, sidewalks, or public places in the Town unless the dog shall be upon a leash and/or under effective control.

- 3-17. Removal of dogs from public gatherings. (new Section)

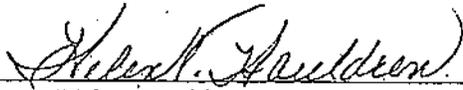
No person shall keep any dog at a public gathering after any humane officer or other officer of the law has determined that the presence or conduct of the dog may jeopardize the health, safety, or welfare of any person attending the gathering. Any such dog shall be promptly removed from such public place its owner or keeper upon oral notification by the officer.

3-18. Penalties for violation of provisions of this Chapter.
(amending and replacing former Section 3-14)

Whoever shall violate any provision of this chapter shall, upon conviction, be fined \$100.00 for the first violation. Upon conviction for a second or subsequent violation, any such person shall be fined from \$100.00 up to \$500.00, and, in addition to such fine, may be imprisoned up to thirty days.

This Ordinance was introduced and read for the first time at a regular meeting of Town Council held on December 3, 2001, and came up for second reading on January 7, 2002.

Adopted this 7th day of January, 2002.



Mayor Helen Hauldren



Recorder Kathleen Skeens

ATV's and off road motorcycles

ARTICLE IX ALL TERRAIN VEHICLES

WHEREAS, the Council of the Town of Hamlin has determined that in order to best protect the safety, health and general well-being of all those individuals operating ATVs, individuals operating other permitted and licensed vehicles, and pedestrians, ~~that~~ ^{on} governmentally owned, leased or otherwise controlled property situated within the corporation limits of Hamlin should be banned and prohibited altogether, and further that such activity should be criminalized with the imposition of progressive fines against those individuals operating ATVs in prohibited areas.

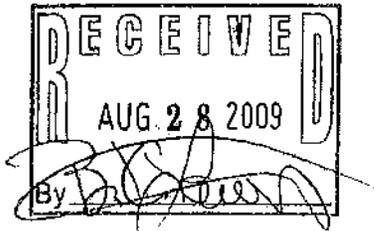
NOW, THEREFORE, BE IT ORDAINED AND ENACTED BY THE COUNCIL OF THE TOWN OF HAMLIN AS FOLLOWS:

Section 11-84 Definitions

"All-terrain vehicle" (ATV) means any motor vehicle designed for off-highway use and designed for operator use only with no passengers, having a seat or saddle designed to be straddled by the operator and handlebars for steering control.

Section 11-85 Prohibited Acts

Except as specifically authorized herein, no person shall operate an ATV within or upon any street, alley, sidewalk, parking lot or other governmentally owned, leased or otherwise controlled property situated within the corporate limits of Hamlin.



ARTICLE IX ALL TERRAIN VEHICLES

WHEREAS, the Council of the Town of Hamlin has determined that in order to best protect the safety, health and the general well-being of the all those individuals operating ATV's, Motorcycle (off-road) UTV's , individuals operating other permitted and licensed vehicles, and pedestrians; that governmentally owned, leased or otherwise controlled property situated within the corporation limits of Hamlin should be banned and prohibited altogether, and further that *such activity should be criminalized with the imposition of progressive fines against those individuals operating ATV's in prohibited areas.*

NOW, THEREFORE, BE IT ORDAINED AND ENACTED BY THE COUNCIL OF THE TOWN OF HAMLIN AS FOLLOWS

Section 11-84 Definitions

"All-terrain vehicle" (ATV) means any motor vehicle designed for off-highway use and designed for operator use only with no passengers, having a seat or saddle designed to be straddled by the operator and handlebars for steering control.

"Motorcycle" (off-road) means any motor vehicle having a seat or saddle for the use of the rider and designed to travel on not more than two wheels in contact with the ground.

"UTV" utility-terrain vehicle means any motor vehicle with four or more low pressure tires designed for off-highway use having bench and or bucket seating for each occupant and a steering wheel for control.

Section 11-85 Prohibited Acts

Except as specifically authorized herein, no person shall operate an ATV, Motorcycle (off-road), and UTV within or upon any street, alley, sidewalk, parking lot or other governmentally owned leased, public area, or otherwise controlled property situated with in the corporate limits of Hamlin.

Section 11-85A Permitting use of an ATV or UTV

THE PERSON OF THE PERMIT KNOWING AND WILLING ALLOWS SOMEONE TO USE THEIR ATV OR UTV

Section 11-86 Special Provision Definitions

Disabled Person

Incapacitated by illness or injury; also: physically or mentally impaired in a way that substantially limits activity especially in relation to ability to travel by foot.

Permits

Permits given by the town of Hamlin, to allow operator to use ATV's and UTV's in the corporate limits of Hamlin. The town of Hamlin reserves the right to reject any person or persons or the special permits. (PRICE) set by the town of Hamlin.

Section 11-86A Use of Special Permits

1. Each person or persons shall display the Special Permits on the left front side of under the controls of an ATV. Left front fender of a UTV.
2. No Motorcycle (off-road) will be allowed to obtain a special permit
3. No one under the age of 18 will be allowed to obtain a special permit.
4. Only an operator is allowed to be on the ATV and UTV.
5. All Operators will wear helmets and eye protection.
6. All Operators must complete a Safety awareness courses. (provide to town)
7. All Operators will follow all laws and rules of the road.
8. Under the special permit time of operation of ATV and UTV is from daylight to dusk.
9. Any permit can be voided by the town of Hamlin or town Police for any and all infractions.
10. Permits are not to be used for leisure riding around town.
11. Permits allow the user to work with or transport goods to and from work site.

Article I. In General

Section 13-1. Permit required to open, grade, etc., street, etc.

It shall be unlawful for any person to open or grade any public street, alley or public way, or to change the elevation or location thereof, or to physically change or alter the same without first obtaining a permit therefor.

Section 13-2. Permit required to erect, etc., structure, etc., on or pave, etc., street, sidewalk, etc.

It shall be unlawful for any person to build, erect, construct or reconstruct any structure, barrier, obstruction or sidewalk in any public street, alley or public way; or to fill, pave or repave the same or any part thereof, or to construct, erect, install, change or replace any drain or drainage structures therein; or to physically alter or change any public street, sidewalk, alley or public way; or to change the elevation or grade thereof in the city, without, first obtaining a permit therefor.

Section 13-3. Regulations governing work under sections 13-1 and 13-2.

Any person desiring to do any of the acts or things provided for in sections 13-1 and 13-2 shall first apply for and obtain a permit from the city council and, if such permit is obtained, granted and issued, the work shall be done in accordance with the terms, conditions and specifications thereof. The council shall have the power to authorize and direct the street commissioner to see that such work is done in accordance with the permit issued and in accordance with the directions, conditions and specifications set for in the permit.

The council may empower and authorize a designated city official to receive and act upon applications for such permits, and to issue or refuse to issue the same, and the action of such designated official shall be of the same force and effect as if done by council.

Section 13-4. Repair and relaying of sidewalks generally.

It shall be the duty of all property owners and of the agents of any nonresident owners to repair or relay any sidewalks abutting upon the property owned by him or in his charge or to repair or relay the same whenever required by an order of the council within thirty days after receiving written notice from the council requiring him to repair or relay such sidewalk. Such sidewalk shall be repaired or re-laid by the owner according to the rules and regulations and specifications adopted or prescribed by the council. If any property owner fails or refused to repair or relay any such sidewalk within thirty days after the receipt of the written notice aforesaid, the council may, in addition to any other penalty or obligation imposed by law upon a property owner, proceed to repair or relay such sidewalk.

and may levy and collect the expense thereof, with interest, after a demand of thirty days has been made by the city clerk to the owner or agent of such property after the completion of the work, which cost and interest shall be collected, and if not paid, shall become a lien on the abutting property so improved.

Section 13-5. Sweeping, etc., dirt, trash, etc., into street or sidewalk.

It shall be unlawful for any person to sweep, throw or deposit dirt, trash, debris, sweepings, paper, rubbish or other waste material or substance of any kind upon any street or sidewalk.

Section 13-6. Duty of person dropping, etc., mud, glass, etc., to remove same.

Any person who drops, or permits to be dropped or thrown upon any street or sidewalk, mud, dirt, glass, or other substance likely to be injurious or likely to cause a sidewalk or street to become dusty, slippery, muddy or dangerous shall immediately remove the same, or cause it be removed.

Section 13-7. Duty of property owners as to keeping sidewalks clean—Generally.

It shall be the duty and responsibility of all adjoining property owners to keep the sidewalk in front of their premises free and clear of rubbish, debris, dirt and other materials and substances.

Section 13-8. Duty of property owner as to keeping sidewalks clean—Removal of snow and ice; keeping gutters unobstructed.

It shall be the duty of every person using or occupying in any manner or for any purpose whatsoever any house, store, shop or any tenement of any kind, and all persons having charge of churches and public buildings of every description, and the owners of unoccupied houses and unimproved lots situate on any paved street in the city, and of their agents, within three hours in a business area and within ten hours in a residential area, after the fall of any snow (unless the snow shall have fallen between the hours of 6:00 P.M. and 6:00 A.M. of the following morning, in which case it shall be removed before 11:00 A.M. in a business area and before 6:00 P.M. in a residential area, or in the case of the formation of any ice on the sidewalk, to remove or clear away from the sidewalks fronting the residences, stores, houses, churches, stables, buildings or lots so used, occupied or owned by them or under their charge, in such manner as to leave the sidewalk clean and free from snow and ice, and in such manner as not to obstruct the passage of the water in the gutters. It shall further be the duty of such persons or their agents to keep the gutters leading to the sidewalks situated in the front or at the rear or side of such tenements above named free from snow and ice and every obstruction, and free from dirt, trash and filth.

Section 13-9. Planting hedge, shrub, etc., in street etc.

No person, including the owner, lessee or tenant or any other person in possession of any lot abutting upon any street, alley or public space in the city, shall plant any hedge, shrub or bush in any street, alley or public space without the permission of the city council.

Section 13-10. Power of street commissioner to trim or remove.

The street commissioner shall have the right to trim or remove such trees and shrubs within the lines of all streets, alleys, lands, and public grounds as may be necessary to insure safety to pedestrians and vehicular traffic and he, under the power granted by this section, may remove, cause or order to be removed any tree, shrub or part thereof, which is in an unsafe condition or which, by reason of its location, may be hazardous to pedestrians or vehicular traffic. The street commissioner shall have the power to enter upon any private grounds for the purpose of trimming or removing trees and shrubbery in order to prevent danger therefrom to person or property, in the event the owner or occupant of such premises does not comply with the orders of the street commissioner relative to the trimming or removal of trees or shrubbery which in his opinion are hazardous to pedestrians or vehicular traffic.

Section 13-11. Awnings.

No person shall construct, maintain or allow to exist an awning the lowest portion of which is less than seven feet vertically from any street or sidewalk.

Section 13-11.A Displaying Establishments and Other Buildings, and the Installation of Neighborhood Delivery and Collection Boxes

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Article I. In General

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It shall be unlawful for any person to open or grade any public street, alley or public way, or to change the elevation or location thereof, or to physically change or alter the same without first obtaining a permit therefor.

Section 13-2. Permit required to erect, etc., structure, etc., on or pave, etc., street, sidewalk, etc.

It shall be unlawful for any person to build, erect, construct or reconstruct any structure, barrier, obstruction or sidewalk in any public street, alley or public way; or to fill, pave or repave the same or any part thereof, or to construct, erect, install, change or replace any drain or drainage structures therein; or to physically alter or change any public street, sidewalk, alley or public way; or to change the elevation or grade thereof in the city, without, first obtaining a permit therefor.

Section 13-3. Regulations governing work under sections 13-1 and 13-2.

Any person desiring to do any of the acts or things provided for in sections 13-1 and 13-2 shall first apply for and obtain a permit from the city council and, if such permit is obtained, granted and issued, the work shall be done in accordance with the terms, conditions and specifications thereof. The council shall have the power to authorize and direct the street commissioner to see that such work is done in accordance with the permit issued and in accordance with the directions, conditions and specifications set for in the permit.

The council may empower and authorize a designated city official to receive and act upon applications for such permits, and to issue or refuse to issue the same, and the action of such designated official shall be of the same force and effect as if done by council.

Section 13-4. Repair and relaying of sidewalks generally.

It shall be the duty of all property owners and of the agents of any nonresident owners to repair or relay any sidewalks abutting upon the property owned by him or in his charge or to repair or relay the same whenever required by an order of the council within thirty days after receiving written notice from the council requiring him to repair or relay such sidewalk. Such sidewalk shall be repaired or re-laid by the owner according to the rules and regulations and specifications adopted or prescribed by the council. If any property owner fails or refused to repair or relay any such sidewalk within thirty days after the receipt of the written notice aforesaid, the council may, in addition to any other penalty or obligation imposed by law upon a property owner, proceed to repair or relay such sidewalk.

and may levy and collect the expense thereof, with interest, after a demand of thirty days has been made by the city clerk to the owner or agent of such property after the completion of the work, which cost and interest shall be collected, and if not paid, shall become a lien on the abutting property so improved.

Section 13-5. Sweeping, etc., dirt, trash, etc., into street or sidewalk.

It shall be unlawful for any person to sweep, throw or deposit dirt, trash, debris, sweepings, paper, rubbish or other waste material or substance of any kind upon any street or sidewalk.

Section 13-6. Duty of person dropping, etc., mud, glass, etc., to remove same.

Any person who drops, or permits to be dropped or thrown upon any street or sidewalk, mud, dirt, glass, or other substance likely to be injurious or likely to cause a sidewalk or street to become dusty, slippery, muddy or dangerous shall immediately remove the same, or cause it be removed.

Section 13-7. Duty of property owners as to keeping sidewalks clean—Generally.

It shall be the duty and responsibility of all adjoining property owners to keep the sidewalk in front of their premises free and clear of rubbish, debris, dirt and other materials and substances.

Section 13-8. Duty of property owner as to keeping sidewalks clean—Removal of snow and ice; keeping gutters unobstructed.

It shall be the duty of every person using or occupying in any manner or for any purpose whatsoever any house, store, shop or any tenement of any kind, and all persons having charge of churches and public buildings of every description, and the owners of unoccupied houses and unimproved lots situate on any paved street in the city, and of their agents, within three hours in a business area and within ten hours in a residential area, after the fall of any snow (unless the snow shall have fallen between the hours of 6:00 P.M. and 6:00 A.M. of the following morning, in which case it shall be removed before 11:00 A.M. in a business area and before 6:00 P.M. in a residential area, or in the case of the formation of any ice on the sidewalk, to remove or clear away from the sidewalks fronting the residences, stores, houses, churches, stables, buildings or lots so used, occupied or owned by them or under their charge, in such manner as to leave the sidewalk clean and free from snow and ice, and in such manner as not to obstruct the passage of the water in the gutters. It shall further be the duty of such persons or their agents to keep the gutters leading to the sidewalks situated in the front or at the rear or side of such tenements above named free from snow and ice and every obstruction, and free from dirt, trash and filth.

Section 13-9. Planting hedge, shrub, etc., in street etc.

No person, including the owner, lessee or tenant or any other person in possession of any lot abutting upon any street, alley or public space in the city, shall plant any hedge, shrub or bush in any street, alley or public space without the permission of the city council.

Section 13-10. Power of street commissioner to trim or remove.

The street commissioner shall have the right to trim or remove such trees and shrubs within the lines of all streets, alleys, lands, and public grounds as may be necessary to insure safety to pedestrians and vehicular traffic and he, under the power granted by this section, may remove, cause or order to be removed any tree, shrub or part thereof, which is in an unsafe condition or which, by reason of its location, may be hazardous to pedestrians or vehicular traffic. The street commissioner shall have the power to enter upon any private grounds for the purpose of trimming or removing trees and shrubbery in order to prevent danger therefrom to person or property, in the event the owner or occupant of such premises does not comply with the orders of the street commissioner relative to the trimming or removal of trees or shrubbery which in his opinion are hazardous to pedestrians or vehicular traffic.

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Any person desiring to do any of the acts or things provided for in sections 13-1 and 13-2 shall first apply for and obtain a permit from the city council and, if such permit is obtained, granted and issued, the work shall be done in accordance with the terms, conditions and specifications thereof. The council shall have the power to authorize and direct the street commissioner to see that such work is done in accordance with the permit issued and in accordance with the directions, conditions and specifications set for in the permit.

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It shall be the duty of every person using or occupying in any manner or for any purpose whatsoever any house, store, shop or any tenement of any kind, and all persons having charge of churches and public buildings of every description, and the owners of unoccupied houses and unimproved lots situate on any paved street in the city, and of their agents, within three hours in a business area and within ten hours in a residential area, after the fall of any snow (unless the snow shall have fallen between the hours of 6:00 P.M. and 6:00 A.M. of the following morning, in which case it shall be removed before 11:00 A.M. in a business area and before 6:00 P.M. in a residential area, or in the case of the formation of any ice on the sidewalk, to remove or clear away from the sidewalks fronting the residences, stores, houses, churches, stables, buildings or lots so used, occupied or owned by them or under their charge, in such manner as to leave the sidewalk clean and free from snow and ice, and in such manner as not to obstruct the passage of the water in the gutters. It shall further be the duty of such persons or their agents to keep the gutters leading to the sidewalks situated in the front or at the rear or side of such tenements above named free from snow and ice and every obstruction, and free from dirt, trash and filth.

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CHANGES AND AMMENDMENTS FOR ORDINANCE: CHAPTER
8---GARBAGE, REFUSE AND WEEDS, AND JUNK AND
ABANDONED VEHICLES

- 1) **Rename the junk and abandoned vehicle ordinance to read “Junk Storage and Beautification”**
- 2) **Define the Purpose of the ordinance:**
 - (a) **The Town of Hamlin hereby declares that a clean, wholesome and attractive environment is of vital importance to the continued general welfare of its citizens, and that regulation of the outdoor storage of junk, rubbish, clutter, litter or debris, regardless of quantity, is hereby prohibited within the sight of persons lawfully traveling the public roads or within sight of one or more neighboring properties anywhere within the Town of Hamlin and declares the same to be a nuisance and fire hazard.**
 - (b) **By adoption of this oridinance, the Town of Hamlin declares its intent to preserve and promote a reasonable quality of environment and aesthetics and to prohibit actions and conduct that tend to depreciate not only the property on which it is located but also the property of other persons in the neighborhood and community generally.**
- 3) **Under the definitions page, change abandoned household appliances to “abandoned household appliances and household furniture”**
- 4) **Council needs to decide who is going to be responsible for the penalty/fine, will it be the actual land owner or the tenant.**
- 5) **Add “Prohibited Acts” to Town of Hamlin’s ordinance, as stated in the City of Huntingtons Junk Storage Ordinance.**
- 6) **Add “Exclusions” to Town of Hamlin’s ordinance, as stated in the city of Huntingtons Junk Storage Ordinance.**

7) Under "Enforcement", change ordinance to read that a complaint has to be filed in the Town Clerk's office.

8) Leave the fine dollar amount the same, possibly add that if the Town of Hamlin has to hire someone to clean or mow the lot that the property owner will be sent a bill.

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- 3) Under the definitions page, change abandoned household appliances to "abandoned household appliances and household furniture"
- 4) Council needs to decide who is going to be responsible for the penalty/fine, will it be the actual land owner or the tenant.
- 5) Add "Prohibited Acts" to Town of Hamlin's ordinance, as stated in
Hamlin's Junk Storage Ordinance.

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Section 1-7 General penalty, continuing violations

Wherever in this Code or in any ordinance or resolution of the city, or rule or regulation or order promulgated by any officer or agency of the city under authority duly vested in him or it, any act is prohibited or is declared to be unlawful or an offense or a misdemeanor, and no specific penalty is provided or the failure to do any act is declared to be unlawful or an offense or a misdemeanor, and no specific penalty is provided for the violation thereof, the violation of any such provision of this Code or any such ordinance, resolution, rule, regulation or order shall be punished by a fine not exceeding five hundred dollars or by imprisonment in jail not exceeding six months, or by both such fine and imprisonment. Each day any violation of this Code or any such ordinance, resolution, rule, regulation or order shall continue shall constitute, except where otherwise provided, a separate offense.

687-5234

CHAPTER SIXTEEN

An Ordinance Regulating Mobile Homes in the Town of Hamlin, West Virginia

Be it ordained by the Common Council of the Town of Hamlin, Lincoln County, West Virginia, that the following Ordinance be enacted to read as hereinafter set out.

Section 16-1 Definitions:

"Mobile Home – any vehicle, including equipment should as a part of a vehicle, Which is more than 25 feet in length which can be used as a conveyance upon streets by either self-propelled or non-self-propelled means, and which is designed, constructed, re-constructed or structurally altered in such manner that it can be used for living purposes."

Section 16-2 Restrictions or special exception requirements for Mobile Homes.

Minimum Lot Area – Not less than 3,000 square feet will be required for each Mobile Home; however, if Mobile Home is placed on a lot with a hour or another Mobile Home, 3,000 square feet will be required, for any additional Mobile Home units or dwellings.

Parking Spaces – Every Mobile Home is required to have one off street parking space, of hard service material. Every Mobile Home shall have access to a public street either by abutting directly on such street or by means of a private road. All Mobile Homes must be placed at least 5 feet from the property line.

Disposal of all waste from showers, toilets, sinks, bathtubs and laundries shall be discharged into the public sewer system of the Town and each Trailer thereon shall have a separate sewer tap into the main public sewer. All Trailers shall have a separate water tap.

Section 16-3 Permit required

It shall be unlawful for any person to establish, maintain, and operate within the Town any Mobile Home for any reason unless such person shall first obtain a permit from the Town Recorder at a cost of \$10.00.

Section 16-4:

All Mobile Homes that are in existence at the time of this Ordinance will remain, if the owner of the property dies or sells he will be subject to