

**AGENDA FOR A PUBLIC WORKS  
COMMITTEE MEETING FOR WEDNESDAY,  
MARCH 29, 2017, 3:00 PM, SMALL CONFERENCE  
ROOM, SECOND FLOOR, MUNICIPAL BUILDING**

(Councilmen Fox, Barber, McCrady, and Carpenter)

- I. CALL TO ORDER – Councilwoman Sharon Kuhl, Chairman
- II. ROLL CALL
- III. NEW BUSINESS
  1. Discussion and/or action concerning ordinances related to enforcement by the Code Department, such as:
    - Towing vehicles;
    - Boat registrations
    - Article 355 of the City Code
    - Other articles of the City Code related to code enforcement.
    - Definitions of 'motor vehicle', 'trailer', and 'vehicle' (in definition portion of code 301.21, 301.50, and 301.52.)
- IV. ADJOURNMENT

**ARTICLE 355**  
**Junk and Abandoned Vehicles**

<p>355.01 Storage prohibited.  355.02 Infestation.  355.03 Impounding.  355.04 Notice of impounding.  355.05 Disposal of unclaimed impounded vehicles.</p>	<p>355.06 Proceeds from sale of abandoned or junk vehicles and machinery.  355.99 Penalty.</p>
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**CROSS REFERENCES**

Junk and abandoned vehicles - see W. Va. Code Art. 17-24

**355.01 STORAGE PROHIBITED.**

No person shall place, store or maintain upon any public street, public alley or public right of way of the City, or place, store or maintain in public view on private property which he owns or occupies, or upon any other private property within the City, any vehicle or machinery which is inoperative and which has been abandoned; or which is discarded, wrecked, ruined, scrapped or dismantled, or which cannot pass State inspection required by W. Va. Code 17C-16-1 et seq., and is either not serving a functional purpose or use or is not in an enclosed building, a licensed salvage yard or in the actual possession of a demolisher, or which is dismantled or demolished or disrepaired to the extent that it is unsightly or inherently dangerous and unattractive to the public at large. However, this provision shall not apply to any business lawfully engaged in the operation of a salvage yard.  
(Ord. 0-186. Passed 12-14-82.)

**355.02 INFESTATION.**

No person shall place, store or maintain upon any public street, alley or right of way of the City, and no person shall allow or place, store or maintain in public view on private property he owns or occupies, or upon any other private property within the City any motor vehicle or machinery, the condition of which is such that it constitutes an actual or probable cohabitation or breeding place for rats, flies, mosquitoes or other vermin.  
(Ord. 0-186. Passed 12-14-82.)

### 355.03 IMPOUNDING.

If the Police Department has knowledge or discovers or finds any abandoned motor vehicles, any junk motor vehicles or any motor vehicles which constitute either a health or safety hazard, the Police Department shall take the same into its custody and possession. For that purpose, the Department may use its own personnel, equipment and facilities or hire a qualified person, equipment and facilities for the purpose of removing, preserving and storing the aforesaid vehicles; provided that, before taking any of the aforesaid vehicles into custody and possession from private property, the Department shall give private property owners and the owner of such motor vehicle, if ascertainable, thirty days notice by registered or certified mail that such action shall be taken unless the motor vehicle is removed or restored to a functional use. (Ord. 0-1025. Passed 5-28-02.)

### 355.04 NOTICE OF IMPOUNDING.

(a) The Police Department which takes into custody and possession any motor vehicle described in Section 355.03 shall, within fifteen days after taking custody and possession thereof, notify the last known registered owner of such motor vehicle and all lienholders 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 Commissioner of Motor Vehicles 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 or any lienholders of record of their right to reclaim such motor vehicle within ten days after the date the notice was received by the owner or lienholders, 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 lienholders of record to exercise their right to reclaim such motor vehicle within such ten-day period shall be deemed a waiver by the owner and all lienholders of record of all right, title and interest in such motor vehicle and of their consent to the sale or disposal of the aforesaid 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 aforesaid 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 addresses of all lienholders, notice shall be published as a Class I legal advertisement in compliance with the provisions of W. Va. Code 59-3-1 et seq., and the publication area for such publication shall be Wood County. Such notice shall be sufficient to meet all requirements of notice pursuant to this article. Any notice by publication may contain multiple listings of the aforesaid motor vehicle. The notice shall be published within fifteen 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) If the Police Department hires any person or entity to take into custody and possession any such motor vehicle pursuant to this section then the Department shall notify the person or entity hired of the name and address of the registered owner of such motor vehicle, if known, and all lienholders of record, if any, within fifteen days after the vehicle is taken into custody and possession: Provided, that the requirements of this subsection shall not apply to motor vehicles for which the registered owner cannot be ascertained by due diligence or investigation.

(d) The consequences and effect of failure to reclaim an aforesaid motor vehicle within the ten day period after notice is received by registered or certified mail or within ten days after the notice is published in a newspaper as aforesaid shall be set forth in such notice. (Ord. 0-1025. Passed 5-28-02.)

#### 355.05 DISPOSAL OF UNCLAIMED IMPOUNDED VEHICLES.

(a) If an aforesaid motor vehicle is not reclaimed as provided for in Section 355.04, the Police Department shall sell it either at a public auction or to a licensed salvage yard or demolisher. The purchaser of such motor vehicle shall take title to such motor vehicle free and clear of all liens and claims of ownership, and shall receive a sales receipt from the Department who 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 the payment of any fees and taxes required under W. Va. 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 purchased such motor vehicle and the licensed salvage yard or demolisher must demolish, wreck or dismantle such motor vehicle within six months after taking possession of such motor vehicle and if such licensed salvage yard or demolisher does not, such licensed salvage yard or demolisher shall be required to pay all fees and taxes required under W. Va. Code 17A-3.

(b) When the Police Department has in its custody and possession old vehicle tires or inoperative or abandoned machinery collected in accordance with Section 355.04, it shall sell such property from time to time at public auction or to a licensed salvage yard or demolisher. (Ord. 0-186. Passed 12-14-82.)

#### 355.06 PROCEEDS FROM SALE OF ABANDONED OR JUNK VEHICLES AND MACHINERY.

From the proceeds of any such sale, the Police Department which sold the abandoned motor vehicle, junked motor vehicle, or inoperative and abandoned machinery shall reimburse itself for any expenses it may have incurred in removing, towing, preserving and storing such property and the expenses of conducting any auction and any notice and publication expenses incurred pursuant to this article.

Any remainder from the proceeds of such sale shall be deposited in the City Treasury to be kept and maintained as a special revolving account, hereinafter established and designated as the "Abandoned and Junked Property Fund"; provided that any remainder from proceeds of the sale of an abandoned motor vehicle or junked motor vehicle after payment of such expenses shall be held for the last registered owner of such motor vehicle or any lienholder for ninety days, after which time, if no owner or lienholder claims the remainder, it shall be deposited in the State Road Fund.

Any moneys so collected and deposited in the special fund shall be used solely by the Police Department for the payment of auction, towing, removing, preserving, storing, notice and publication costs which results from taking other abandoned motor vehicles, junked motor vehicles, and inoperative or abandoned machinery into custody and possession. (Ord. 0-1025. Passed 5-28-02.)

355.99 PENALTY.  
(EDITOR'S NOTE: Former Section 355.99 was repealed by Ordinance 0-1025, passed May 28, 2002.)

**347.21 REGISTRATION PLATES REQUIRED.**

No person shall operate any motor vehicle upon any street in the City unless such person shall display thereon the registration plates in such manner as may be required by the laws of the State. (1947 Code §19.75)

**347.22 PERMITTING UNAUTHORIZED PERSON TO DRIVE.**

No person shall authorize or knowingly permit a motor vehicle owned by him or under his control to be driven upon any street in the City by any person who is not licensed in accordance with West Virginia Code Chapter 17B, or by any person in violation of any of the provisions of such Chapter. (Ord. A-3642. Passed 1-10-78.)

**347.23 REGISTRATION CARD REQUIRED.**

No person shall operate, nor shall an owner knowingly permit to be operated, upon any street within the City any vehicle required to be registered hereunder unless there shall be in the possession of the operator a valid registration card as required by West Virginia Code Chapter 17A. (Ord. A-3642. Passed 1-10-78.)

**347.231 REGISTRATION OF VEHICLES OF NEW RESIDENTS.**

(a) Every owner of a motor vehicle, trailer or other vehicle, shall, within thirty (30) days after taking up residence in the state, apply to the division of motor vehicles and obtain registration and title for the vehicle.

(b) For the purposes of this section there is a rebuttable presumption that a natural person is a resident of this state if any of the following elements exist including, but not limited to:

- (1) The person is registered to vote in this state.
- (2) The person enrolls the person's child to be educated in a public elementary or secondary school in this state.
- (3) The person is receiving public assistance from this state.
- (4) The person resides or has continuously remained in this state for a period exceeding thirty (30) days except for infrequent or brief absences.
- (5) The person has accepted employment or engages in any trade, profession, or occupation within this state, except that this does not include a person who is commuting from the person's residence in another state or whose employment is seasonal or temporary, not exceeding ninety (90) days.
- (6) The person has filed for a homestead tax exemption on property in this state.

"Resident" does not include a person who is attending a college, university or other educational institution in this state, if the person has a domicile in another state and has a valid operator's license and vehicle registration issued by the state of domicile.

"Resident" also does not include members of the armed forces that are stationed in West Virginia providing that their vehicles are properly registered in their state of residence or a member of the armed forces stationed in another state or country providing that their vehicles are properly registered in that state or country.

- (c) Relieving the crowded condition of any commercial parking lot, used car lot, automobile sale lot, repair garage, automobile sale agency or used car sales agency. (Ord. 0-934. Passed 11-23-99.)

#### 351.09 PARKING ADJACENT TO SCHOOLS.

The Chief of Police is hereby authorized to erect signs indicating no parking upon that side of any street adjacent to any school property when such parking would, in his opinion, interfere with traffic or create a hazardous situation.

When official signs are erected indicating no parking upon that side of a street adjacent to any school property, no person shall park a vehicle in any such designated place. (1947 Code §19.103)

#### 351.10 TRUCKS OR TRAILERS.

No person shall park or leave unattended any truck having a total outside width, including load thereon, of more than ninety-six inches or having a total height, including load thereon, of more than ninety-six inches on any street, sidewalk or public thoroughfare within the City for a period of time which exceeds two hours. Nor shall such vehicle be more than 300 inches in length.

No person shall park or leave unattended any trailer having a total outside width, including load thereon, of more than forty-eight inches or having a total height, including load thereon, of more than ninety-six inches on any street, sidewalk or public thoroughfare within the City for a period of time which exceeds two hours. Nor shall such vehicle be more than ninety-six inches in length. (Ord. 0-419. Passed 11-12-85.)

#### 351.11 NIGHT PARKING OR STORAGE.

No vehicle shall be stored or parked upon any street within the central traffic district for a period of time longer than thirty minutes between the hours of 2:00 a.m. and 6:00 a.m. of any day, except a physician on an emergency call. (1947 Code §19.108)

#### 351.12 STOPPING OR STANDING IN FREIGHT CURB LOADING ZONE.

No person shall stop, stand or park a vehicle for any purpose of length of time other than for the expeditious unloading and delivery or pick-up and loading of materials in any place marked as a freight curb loading zone during hours when the provisions applicable to such zones are in effect.

The driver of a passenger vehicle may stop temporarily at a place marked as a freight curb loading zone for the purpose of, and while actually engaged in, loading or unloading passengers when such stopping does not interfere with any motor vehicle used for the transportation of materials which is about to enter such zone. (1947 §19.110)

#### 351.13 PARKING BUSES AND TAXICABS.

(a) The driver of a bus or taxicab shall not park upon any street in any business district or in the central traffic district at any place other than at a bus stop or taxicab stand, respectively, except that this provision shall not prevent the driver of a taxicab from temporarily stopping in accordance with other stopping or parking regulations at any place for the purpose of, and while actually engaged in, loading or unloading passengers. (1947 Code §19.112)

(b) No driver of a bus shall stop the bus for the purpose of receiving or discharging passengers at any place other than a designated bus stop.

**301.20 MOTOR-DRIVEN CYCLE; MOPED.**

"Motor-driven cycle" means every motorcycle having a piston displacement of more than fifty cubic centimeters but not more than 150 cubic centimeters, or with not more than five brake horsepower. (WVaC 17C-1-5)

"Moped" means every motorcycle or motor-driven cycle unless otherwise specified in this Traffic Code, which is equipped with two or three wheels, foot pedals to permit muscular propulsion and an independent power source providing a maximum of two brake horsepower. If a combustion engine is used, the maximum piston or rotor displacement shall be fifty cubic centimeters regardless of the number of chambers in such power source. The power source shall be capable of propelling the vehicle, unassisted, at a speed not to exceed thirty miles per hour on a level road surface and shall be equipped with a power drive system that functions directly or automatically only, not requiring clutching or shifting by the operator after the drive system is engaged.  
(WVaC 17C-1-5a)

**301.21 MOTOR VEHICLE.**

"Motor vehicle" means every vehicle which is self-propelled and every vehicle which is propelled by electric power obtained from overhead trolley wires, but not operated upon rails, except motorized wheelchairs. (WVaC 17C-1-3)

**301.22 OWNER.**

"Owner" means the person who holds the legal title of a vehicle or in the event a vehicle is the subject of an agreement for the conditional sale or lease thereof with the right of purchase upon performance of the conditions stated in the agreement and with an immediate right of possession vested in the conditional vendee or lessee, or in the event a mortgagor of a vehicle is entitled to possession, then such conditional vendee or lessee or mortgagor shall be deemed the owner for the purpose of this Traffic Code.  
(WVaC 17C-1-32)

**301.23 PARK; PARKING AREA.**

"Park", when prohibited, means the standing of a vehicle, whether occupied or not, otherwise than temporarily for the purpose of and while actually engaged in loading or unloading. (WVaC 17C-1-54; 1947 Code §19.1)

"Parking area" means lots, areas or other accommodations for the parking of vehicles off the street or highway and open to public use with or without charge.  
(WVaC 17C-1-60)

**301.24 PARKING METER.**

"Parking meter" means any patented mechanical device or contrivance having timing meters and used for timing the parking of vehicles on the public streets.  
(1947 Code §19.1)

**301.25 PASSENGER CURB LOADING ZONE.**

"Passenger curb loading zone" means a place adjacent to a curb reserved for the exclusive use of vehicles during the loading or unloading of passengers.  
(1947 Code §19.1)



**301.49 TRAFFIC CONTROL SIGNAL.**

"Traffic control signal" means any device, whether manually, electrically or mechanically operated, by which traffic is alternately directed to stop and to proceed. (WVaC 17C-1-48)

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**301.50 TRAILER.**

"Trailer" means every vehicle with or without motive power, other than a pole trailer, designed for carrying persons or property and for being drawn by a motor vehicle and so constructed that no part of its weight rests upon the towing vehicle. (WVaC 17C-1-15)

**301.51 TRUCK.**

"Truck" means every motor vehicle designed, used or maintained primarily for the transportation of property. (WVaC 17C-1-12)

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**301.52 VEHICLE.**

"Vehicle" means every device in, upon or by which any person or property is or may be transported or drawn upon a street or highway, except devices moved by human power or used exclusively upon stationary rails or tracks or wheelchairs. (WVaC 17C-1-2)

**301.53 WHEELCHAIR.**

"Wheelchair" means a motorized or nonmotorized wheeled device designed for, and used by, a person with disabilities that is incapable of a speed in excess of eight miles per hour. (WVaC 17C-1-65)