

MONONGALIA COUNTY COMMISSION

243 HIGH STREET, ROOM 202
COURTHOUSE
MORGANTOWN, WEST VIRGINIA 26505

Jeffrey L. Arnett, Commissioner
Thomas C. Bloom, Commissioner
Sean P. Sikora, Commissioner

Telephone: 304 291-7257



MONONGALIA COUNTY COMMISSION PEDESTRIAN AND VEHICLE SAFETY ORDINANCE

I. AUTHORITY

- A. Article IX § 11 of the West Virginia Constitution grants county commissions authority and administration of the internal police and fiscal affairs of their counties, including the establishment and regulation of roads, ways, bridges, and public landings.
- B. West Virginia Code § 7-1-3kk grants county commissions the authority to regulate or eliminate hazards to public health and safety by ordinances that may be applicable to the “county in its entirety or to any portion of the county as considered appropriate by the county commission.”
- C. West Virginia Code 17C-10-1(b) grants local authorities the power to enact ordinances prohibiting pedestrians from crossing any roadway in a business district or any designated highways except in a crosswalk.

II. JURISDICTION

- A. This Ordinance is effective throughout the unincorporated territory of Monongalia County, West Virginia.
- B. The Magistrate Court of Monongalia County and the Circuit Court of Monongalia County shall have concurrent jurisdiction with respect to misdemeanors under this Ordinance.

III. DEFINITIONS

- A. **Intersection.** In accordance with W. Va. Code § 17C-1-42 “intersection” shall be defined to mean the area embraced within the prolongation or connection of the lateral curb lines, or, if none, then the lateral boundary lines of the roadways of two highways which join one another at, or approximately at, right angles, or the area within which vehicles traveling upon different highways joining at any other angle may come in conflict; and where a highway includes two roadways thirty feet or more apart, then every crossing of each roadway of such divided highway by an intersecting highway shall be regarded as a separate intersection. In the event

such intersecting highway also includes two roadways thirty feet or more apart, then every crossing of two roadways of such highways shall be regarded as a separate intersection.

- B. **Pedestrian.** In accordance with W. Va. Code § 17C-1-30 “pedestrian” shall be defined to mean any person afoot or any person using a wheelchair.
- C. **Areas of Concern.** “Area of Concern” shall be any area in which the prohibitions, limitations or restrictions set forth in Article V of this Ordinance shall be in effect from time to time based upon the findings of the Commission under Article III of this Ordinance.
- D. **Road, public road, or highway.** In accordance with W. Va. Code § 17-1-3, “road”, “public road”, or “highway” shall be deemed to include, but shall not be limited to, the right-of- way, roadbed and all necessary culverts, sluices, drains, ditches, waterways, embankments, slopes, retaining walls, bridges, tunnels and viaducts necessary for the maintenance of travel, dispatch of freight and communication between individuals and communities; and such public road or highway shall be taken to include any road to which the public has access and which it is not denied the right to use, or any road or way leading from any other public road over the land of another person, and which shall have been established pursuant to law. For purposes of this Ordinance, “sidewalk” shall not be included in the definition of “road,” “public road,” or “highway.”
- E. **Roadway.** In accordance with W. Va. Code § 17C-1-37 “roadway” shall be defined to mean that portion of a highway improved, designed, or ordinarily used for vehicular travel, exclusive of the berm or shoulder.
- F. **Sidewalk.** “Sidewalk” shall be defined in accordance with W. Va. Code § 17C-1- 38 to mean that portion of a street between the curb lines, or the lateral lines of a roadway, and the adjacent property lines, intended for the use of pedestrians.
- G. **State and public roads.** “State road” shall be defined in accordance with W. Va. Code § 17-1-28 to mean and include all roads classified and prescribed as either “expressway,” “trunkline,” “feeder,” or “state local service” roads. “Public roads” shall mean all other roads and bridges under the control of the county court or the governing body of a municipality.
- H. **Stop or stopping.** “Stop” or “stopping” shall be defined in accordance with W. Va. Code § 17C-1-53 to mean, when prohibited, any stopping or standing of a vehicle, whether occupied or not, except when necessary to avoid conflict with other traffic or in compliance with the directions of a police officer or traffic-control sign or signal.
- I. **Traffic.** “Traffic” shall be defined in accordance with W. Va. Code § 17C-1-50 to mean pedestrians, ridden or herded animals, vehicles, streetcars, and other conveyances either singly or together while using any highway for purposes of travel.
- J. **Vehicle.** “Vehicle” shall be defined in accordance with W. Va. Code § 17C-1-2 to mean every device in, upon or by which any person or property is or may be transported or drawn upon a highway, except devices moved by human power or used exclusively upon stationary rails or tracks or wheelchair.

IV. FINDINGS AND AREAS OF PUBLIC SAFETY CONCERNS

- A. The Monongalia County Commission finds that public safety is a compelling and significant governmental interest.
- B. The Monongalia County Commission finds a significant safety risk to both pedestrians and occupants of vehicles in areas possessing, without limitation, any, some or all of the following characteristics:
 - i. Intersections where at least one roadway has an annual average daily traffic volume of 4,000 or more vehicles per through lane.
 - ii. Roads or highways with speed limits of at least 35 miles an hour;
 - iii. Medians of roads or highways that are less than 10 feet wide;
 - iv. Roads or highways with poor or no lighting at night;
 - v. Roads or highways during inclement weather conditions that limit the visibility of both pedestrians and occupants of vehicles;
 - vi. Intersections of roadways used to dispatch emergency vehicles; or
 - vii. Roads or highways under construction or repair.
- C. The Monongalia County Commission finds that the interaction or exchanging of items between pedestrians and occupants of vehicles hinders the flow of traffic of roadways and increases the risk of single-vehicle, vehicle-on-vehicle, or vehicle-on-pedestrian accidents, which the Commission finds to be a hazard to public safety.
- D. The Monongalia County Commission finds that the interaction or exchanging of items between occupants of vehicles and occupants of other vehicles hinders the flow of traffic of roadways and increases the risk of single-vehicle, vehicle-on-vehicle, or vehicle-on-pedestrian accidents, which the Commission finds to be a hazard to public safety.
- E. Consequently, the Monongalia County Commission finds that the issues of pedestrian and vehicle safety are so significant and compelling as to justify the enactment of this Ordinance under the statutory authorities in Section I of this Ordinance, the laws of West Virginia, and the laws of the United States.

V. PROHIBITIONS

Within any Area of Concern, it shall be unlawful:

- A. For any person within a road or highway to reach out to interact with or exchange items with

any occupant of a vehicle entering on, or departing a roadway;

- B. For any occupant of a vehicle entering on, or departing a roadway to reach out of or attempt to reach out of his vehicle to interact with or exchange items with another occupant of a vehicle or any person within a road or highway;
- C. For any person to stand, sit, or otherwise physically remain within the roadway for any reason apart from the lawful crossing of a road or highway.
- D. For any person to stand, sit, or otherwise remain in the median of a road or highway where the median is not wider than 10 feet for any reason apart from the lawful crossing of a road or highway.
- E. For any person to stand, sit, or otherwise remain in the median, neutral ground, shoulder, or other part of the road or highway where the intersection has one roadway with an annual average daily traffic volume of 4,000 or more vehicles per through lane.
- F. For any person to stand, sit, or otherwise remain in the median, neutral ground, shoulder, or other part of the road or highway where the road highway has a speed limit exceeding 35 miles an hour for any reason apart from the lawful crossing of the road or highway.
- G. It shall be unlawful for any person to stand, sit, or otherwise remain in the median, neutral ground, shoulder, or other part of the highway at night and where the roadway has poor or no lighting for any reason apart from the lawful crossing of a highway.
- H. It shall be unlawful for any person to stand, sit, or otherwise remain in the median, neutral ground, shoulder, or other part of the highway during inclement weather conditions that limit the visibility of pedestrians and occupants of vehicles on the highway for any reason apart from the lawful crossing of a highway.
- I. It shall be unlawful for any person to stand, sit, or otherwise remain in the median, neutral ground, shoulder, or other part of the highway where the intersection is regularly used to dispatch emergency vehicles for any reason apart from the lawful crossing of a highway.
- J. It shall be unlawful for any person to stand, sit, or otherwise remain in the median, neutral ground, shoulder, or other part of the highway where the highway is under construction or repair for any reason apart from the lawful crossing of a highway.

VI. ENFORCEMENT

- A. This Ordinance may be enforced by any law enforcement agency, including, without limitation, the Monongalia County Sheriff's Department, or any law enforcement agency of the State of West Virginia, if authorized by law to do so. Any authorized agency may enforce this Ordinance by issuing citations, making arrests, or issuing charges.
- B. The Monongalia County Commission, in its discretion, may provide public signs as notice of

the prohibitions of Article V of this Ordinance.

VII. PENALTIES

- A. Any violation of the prohibitions of Article V of this Ordinance shall be a misdemeanor.
 - i. For the first offense, the offender will be required to leave the highway and be given a written warning. The offender will provide his name and address to the officer, and the offender may be given an information sheet for information regarding the Ordinance; and
 - ii. For each of the second and subsequent offenses, the penalty shall be given a citation and be subject to a fine up to and not more than One Hundred Dollars (\$100.00).

VIII. INTERPRETATION

- A. Nothing in this ordinance shall be construed to prevent, hinder, or otherwise impair a person's rights under the Constitution and laws of the United States and the State of West Virginia.
- B. The use of the pronoun "he" shall be construed to include any person.
- C. Any Federal, State, County, Municipal or Local Public Safety and Emergency Response personnel affiliated with a governmental authority or a duly licensed agency, and serving in the performance of official duties, shall not be in violation of this ordinance.

IX. DUTIES OF THE COUNTY COMMISSION

The Commission from time to time shall publish a list of the Areas of Concern under this Ordinance to the Commission's web page and generally through other means. The Commission shall update this list annually to remain in accordance with the Commission's findings under Article III of this Ordinance.

X. SEVERABILITY

If any clause, paragraph, section, or subsection of this Ordinance is held to be invalid or unconstitutional by any court of competent jurisdiction, the remainder of this Ordinance shall not be affected thereby but shall remain in full force and effect.

XI. EFFECTIVE DATE

This ordinance shall become effective on and after passage and upon adoption by the Monongalia County Commission and shall supersede the previously approved "*Ordinance Regulating*

Soliciting/Panhandling” as adopted on August 4, 2010.

PASSED by the Monongalia County Commission on **FIRST READING** the **4th** day of **October 2023**.

A **SECOND READING** and **PUBLIC HEARING** were held the **11th** day of **October 2023**, after notice of the public hearing on said ordinance was published as a Class II legal advertisement.

Upon Motion of Commissioner Sikora, seconded by Commissioner Arnett, it is ordered that the aforesaid ordinance be adopted by the County Commission of Monongalia County, West Virginia.

DATED: October 25, 2023



Thomas C. Bloom
President



Sean P. Sikora
Commissioner



Jeffrey L. Arnett
Commissioner