

CODIFIED ORDINANCES OF BOLIVAR

PART THREE - TRAFFIC CODE

CHAPTER ONE - Administration

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ARTICLE 301 Definitions

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CROSS REFERENCES

See sectional histories for similar State law
Speed race defined - see TRAF. 335.04

301.01 MEANING OF WORDS AND PHRASES.

The following words and phrases when used in this Traffic Code shall, for the purpose of this Traffic Code, have the meanings respectively ascribed to them in this article.
(WVaC 17C-1-1)

301.02 AUTHORIZED EMERGENCY VEHICLE.

"Authorized emergency vehicle" means vehicles of the Fire Department, duly chartered rescue squad, Police Department, ambulance service, state, county or municipal agency and such privately owned ambulances, tow trucks, wreckers, flag car services, vehicles providing road service to disabled vehicles, service vehicles of a public service corporation, postal service vehicles, snow removal equipment, Class A vehicles of firefighters, Class A vehicles of members of ambulance services, and Class A vehicles of members of duly chartered rescue squads, and all other emergency vehicles as are designated by the agency responsible for the operation and control of these persons or organizations. Class A vehicles are as defined by West Virginia Code 17A-10-1. Agency authorization and emergency equipment are defined in West Virginia Code 17C-15-26. Agencies responsible for issuing authorization for emergency vehicle permits may promulgate such regulations that are necessary for the issuance of permits for emergency vehicles.
(WVaC 17C-1-6)

301.03 BICYCLE.

"Bicycle" means every device which does not have a motor attached and which is propelled by human power upon which any person may ride, having two tandem wheels either of which is more than twenty inches in diameter.
(WVaC 17C-1-8)

301.04 BUS.

"Bus" means every motor vehicle designed for carrying more than seven passengers and used for the transportation of persons; and every motor vehicle, other than a taxicab, designed and used for the transportation of persons for compensation. (WVaC 17C-1-13)

301.05 BUSINESS DISTRICT.

"Business district" means the territory contiguous to and including a street or highway when within any 600 feet along such highway there are buildings in use for business or industrial purposes, including but not limited to hotels, banks or office buildings, railroad stations, and public buildings which occupy at least 300 feet of frontage on one side or 300 feet collectively on both sides of the street or highway.
(WVaC 17C-1-45)

301.06 CONTROLLED-ACCESS HIGHWAY.

"Controlled-access highway" means every highway, street or roadway in respect to which owners or occupants of abutting lands and other persons have no legal right of access to or from the same except at such points only and in such manner as may be determined by the public authority having jurisdiction over such highway, street or roadway.
(WVaC 17C-1-41)

301.07 CROSSWALK.

"Crosswalk" includes:

- (a) That part of a roadway at an intersection included within the connections of the lateral lines of the sidewalks on opposite sides of the street or highway measured from the curbs or, in the absence of curbs, from the edges of the traversable roadway; and
- (b) Any portion of a roadway at an intersection or elsewhere distinctly indicated for pedestrian crossing by lines or other markings on the surface. (WVaC 17C-1-43)

301.08 DRIVER.

"Driver" means every person who drives or is in actual physical control of a vehicle. (WVaC 17C-1-31)

301.09 EXPLOSIVES.

"Explosives" means any chemical compound or mechanical mixture that is commonly used or intended for the purpose of producing an explosive and which contains any oxidizing and combustible units or other ingredients in such proportions, quantities or packing that an ignition by fire, by friction, by concussion, by percussion or by detonator of any part of the compound or mixture may cause such a sudden generation of highly heated gases that the resultant gaseous pressures are capable of producing destructive effects on contiguous objects or of destroying life or limb.

(WVaC 17C-1-24)

301.10 FLAMMABLE LIQUID.

"Flammable liquid" means any liquid which has a flash point of seventy degrees Fahrenheit, or less, as determined by a tagliabue or equivalent closedcup test device.

(WVaC 17C-1-25)

301.11 GROSS WEIGHT.

"Gross weight" means the weight of a vehicle without load plus the weight of any load thereon.

(WVaC 17C-1-26)

301.12 INTERSECTION.

"Intersection" includes:

- (a) 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 streets or highways which join one another at, or approximately at, right angles, or the area within which vehicles traveling upon different streets or highways joining at any other angle may come in conflict; and
- (b) Where a street or highway includes two roadways thirty feet or more apart, then every crossing of each roadway of such divided street or highway by an intersecting highway shall be regarded as a separate intersection. In the event such intersecting street or highway also includes two roadways thirty feet or more apart, then every crossing of two roadways of such streets or highways shall be regarded as a separate intersection.

(WVaC 17C-1-42)

301.13 LANED ROADWAY.

"Laned roadway" means a roadway which is divided into two or more clearly marked lanes for vehicular traffic.
(WVaC 17C-1-39)

301.14 MOPED.

"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)

301.15 MOTORCYCLE.

"Motorcycle" means every motor vehicle having a seat or saddle for the use of the rider and designed to travel on not more than three wheels in contact with the ground, but excluding a tractor.
(WVaC 17C-1-4)

301.16 MOTOR-DRIVEN CYCLE.

"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)

301.17 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.
(WVaC 17C-1-3)

301.18 OWNER.

"Owner" means a 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)

301.19 PARK.

"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)

301.20 PARKING AREA.

"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)

301.201 PASSENGER VAN.

"Passenger van" means any van or other motor vehicle owned by any agency, business or other legal entity and operated for the purpose of transportation of children under the age of eighteen years, other than a van utilized for private use, taxicab, bus or school bus. Passenger vans include, but are not limited to, vehicles used by daycare centers, after-school centers and nursery schools: provided, that the term "passenger van" does not include any van or other motor vehicle which is utilized for the specific purpose of transporting children to medical facilities for the purpose of medical or dental treatment and which loads and unloads the children on private property, making no stops for loading or unloading along public roads or highways. (WVaC 17C-1-64)

301.21 PEDESTRIAN.

"Pedestrian" means any person afoot. (WVaC 17C-1-30)

301.22 PERSON.

"Person" means every natural person, firm, copartnership, association or corporation. (WVaC 17C-1-29)

301.23 POLE TRAILER.

"Pole trailer" means every vehicle without motive power designed to be drawn by another vehicle and attached to the towing vehicle by means of a reach, or pole, or by being boomed or otherwise secured to the towing vehicle and ordinarily used for transporting long or irregularly shaped loads such as poles, pipes, trusses or structural members capable, generally, of sustaining themselves as beams between the supporting connections. (WVaC 17C-1-17)

301.24 POLICE OFFICER.

"Police officer" means every officer authorized to direct or regulate traffic or to make arrests for violations of traffic regulations. (WVaC 17C-1-33)

301.25 PRIVATE ROAD OR DRIVEWAY; PRIVATE PROPERTY.

(a) "Private road" or "driveway" means every way or place in private ownership and used for vehicular travel by the owner and those having express or implied permission from the owner, but not by other persons.

(b) "Private property" means real estate in private ownership without regard to the manner in which it is used. (WVaC 17C-1-36)

301.26 RAILROAD.

"Railroad" means a carrier of persons or property, upon cars, other than streetcars, operated upon stationary rails. (WVaC 17C-1-21)

301.27 RAILROAD SIGN OR SIGNAL.

"Railroad sign" or "signal" means any sign, signal or device erected by authority of a public body or official or by a railroad and intended to give notice of the presence of railroad tracks or the approach of a railroad train. (WVaC 17C-1-49)

301.28 RAILROAD TRAIN.

"Railroad train" means a steam engine, electric or other motor, with or without cars coupled thereto, operated upon rails, except streetcars. (WVaC 17C-1-22)

301.29 RESIDENCE DISTRICT.

"Residence district" means the territory contiguous to and including a street or highway not comprising a business district when the property on such street or highway for a distance of 300 feet or more is in the main improved with residences or residences and buildings in use for business.

(WVaC 17C-1-46)

301.30 RESIDENTIAL STREET.

"Residential street" means the entire width between the boundary lines of every way, whether publicly or privately maintained, located within any subdivision, development or other similar area used primarily for residential purposes when any part thereof is open to the common use of those living in such area for the purpose of vehicular travel.

(WVaC 17C-1-62)

301.31 RIGHT OF WAY.

"Right of way" means the privilege of the immediate use of the street or highway.

(WVaC 17C-1-51)

301.32 ROADWAY.

"Roadway" means that portion of a street or highway improved, designed or ordinarily used for vehicular travel, exclusive of the berm or shoulder. In the event a street or highway includes two or more separate roadways, the term "roadway" as used herein shall refer to any such roadway separately but not to all such roadways collectively.

(WVaC 17C-1-37)

301.33 SAFETY ZONE.

"Safety zone" means the area or space officially set apart within a roadway for the exclusive use of pedestrians and which is protected or is so marked or indicated by adequate signs as to be plainly visible at all times while set apart as a safety zone.

(WVaC 17C-1-44)

301.34 SCHOOL BUS.

"School bus" means every motor vehicle owned by a public or governmental agency and operated for the transportation of children to or from school, or privately owned and operated for compensation for the transportation of children to or from school.

(WVaC 17C-1-7)

301.35 SCHOOL GROUNDS.

"School grounds" includes the land on which a school is built together with such other land used by students for play, recreation or athletic events while attending school.

(WVaC 17C-1-55)

301.36 SEMITRAILER.

"Semitrailer" 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 some part of its weight and that of its load rests upon or is carried by another vehicle.

(WVaC 17C-1-16)

301.37 SIDEWALK.

"Sidewalk" means that portion of a street or highway between the curb lines, or the lateral lines of a roadway, and the adjacent property lines intended for the use of pedestrians.
(WVaC 17C-1-38)

301.38 STOP.

"Stop" when required, means complete cessation from movement.
(WVaC 17C-1-52)

301.39 STOP, STOPPING OR STANDING.

"Stop", "stopping," or "standing," when prohibited, means 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.
(WVaC 17C-1-53)

301.40 STREET OR HIGHWAY; ALLEY.

(a) "Street" or "highway" means the entire width between the boundary lines of every way publicly maintained when any part thereof is open to the use of the public for purposes of vehicular travel.
(WVaC 17C-1-35)

(b) "Alley" means a street or highway intended to provide access to the rear or side of lots or buildings in urban districts and not intended for the purpose of through vehicular traffic.

301.41 THROUGH STREET OR THROUGH HIGHWAY.

"Through street" or "through highway" means every street or highway or portion thereof at the entrances to which vehicular traffic from intersecting streets or highways is required by law to stop before entering or crossing the same and when stop signs are erected as provided in this Traffic Code.
(WVaC 17C-1-40)

301.42 TRAFFIC.

"Traffic" means pedestrians, ridden or herded animals, vehicles, streetcars and other conveyances either singly or together while using any street or highway for purposes of travel.
(WVaC 17C-1-50)

301.43 TRAFFIC CONTROL DEVICES.

"Traffic control device" means any sign, signal, marking and device not inconsistent with this Traffic Code placed or erected by authority of a public body or official having jurisdiction, for the purpose of regulating, warning or guiding traffic.
(WVaC 17C-1-47)

301.44 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)

301.45 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)

301.46 TRUCK.

"Truck" means every motor vehicle designed, used or maintained primarily for the transportation of property.

(WVaC 17C-1-12)

301.47 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.

(WVaC 17C-1-2)

ARTICLE 303
Enforcement, Impounding and Penalty

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| <p>303.01 Authority of Police and Fire Department officials.</p> <p>303.02 Application to vehicles upon streets and highways; exceptions.</p> <p>303.03 Obedience to police officers; fleeing.</p> <p>303.04 Application to government vehicles; exception.</p> | <p>303.05 Authorized emergency vehicles.</p> <p>303.06 Application to persons riding animals or driving animal-drawn vehicles.</p> <p>303.07 Impounding of vehicles; redemption.</p> <p>303.08 Rights of owners of real property.</p> <p>303.99 Penalty.</p> |
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CROSS REFERENCES

See sectional histories for similar State law
Disposition of abandoned vehicles - see W. Va. Code 17-24-5 et seq.
Uniform application of West Virginia traffic law - see W. Va. Code 17C-2-7
Power of local authorities - see W. Va. Code 17C-2-8

303.01 AUTHORITY OF POLICE AND FIRE DEPARTMENT OFFICIALS.

(a) It shall be the duty of the officers of the Police Department to enforce all street traffic laws of this Municipality and all of the State vehicle laws applicable to street traffic in this Municipality.

(b) Officers of the Police Department are hereby authorized to direct all traffic by voice, hand or signal in conformance with traffic laws; provided that in the event of a fire or other emergency or to expedite traffic or to safeguard pedestrians, officers of the Police Department may direct traffic as conditions may require notwithstanding the provisions of the traffic laws.

(c) Officers of the Fire Department, when at the scene of a fire, may direct or assist the police in directing traffic thereat or in the immediate vicinity.

303.02 APPLICATION TO VEHICLES UPON STREETS AND HIGHWAYS; EXCEPTIONS.

The provisions of this Traffic Code relating to the operation of vehicles refer exclusively to the operation of vehicles upon streets and highways except:

- (a) Where a different place is specifically referred to in a given section.
- (b) The provisions of this Traffic Code except Article 347 shall apply upon streets and highways as defined in Section 351.06.
(WVaC 17C-2-1)

303.03 OBEDIENCE TO POLICE OFFICERS; FLEEING.

(a) No person shall willfully fail or refuse to comply with any lawful order or direction of any police officer or special officer invested by law with authority to direct, control or regulate traffic.

(WVaC 17C-2-3(c))

(b) No person shall operate a vehicle so as to willfully elude or flee a police officer or special officer after receiving a visible or audible signal from such an officer to bring his vehicle to a stop.

303.04 APPLICATION TO GOVERNMENT VEHICLES; EXCEPTION.

(a) The provisions of this Traffic Code applicable to the drivers of vehicles upon the streets or highways shall apply to the drivers of all vehicles owned or operated by the United States, this State, or any county, Municipality, town, district or any other political subdivision of the State, except as provided in this section and subject to such specific exceptions as are set forth in this Traffic Code with reference to authorized emergency vehicles.

(b) Unless specifically made applicable, the provisions of this Traffic Code shall not apply to persons, teams, motor vehicles and other equipment while actually engaged in work upon the surface of a street or highway but shall apply to such persons and vehicles when traveling to or from such work.

(WVaC 17C-2-4)

303.05 AUTHORIZED EMERGENCY VEHICLES.

(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 Traffic Code;
 - (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 or 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 be reasonably necessary, and when the vehicle is equipped with at least one lighted flashing lamp as authorized by Section 345.18 which is visible under normal atmospheric conditions from a distance of 500 feet to the front of such vehicle, except that an authorized emergency vehicle operated as a police vehicle need not be equipped with or display a warning light visible from in front of the vehicle.

(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.

(WVaC 17C-2-5)

303.06 APPLICATION TO PERSONS RIDING ANIMALS OR DRIVING ANIMAL-DRAWN VEHICLES.

Every person riding an animal or driving any animal-drawn vehicle upon a roadway shall be granted all of the rights and shall be subject to all of the duties applicable to the driver of a vehicle by this Traffic Code, except those provisions of this Traffic Code which by their very nature can have no application.

(WVaC 17C-2-6)

303.07 IMPOUNDING OF VEHICLES; REDEMPTION.

Police officers are authorized to provide for the removal and impounding of a vehicle under the following circumstances:

- (a) When any vehicle is left unattended upon any street, bridge or causeway and is so illegally parked so as to constitute a hazard or obstruction to the normal movement of traffic, or so as to unreasonably interfere with street cleaning or snow removal operations.
- (b) When any vehicle has been abandoned or junked on private or public property as provided in West Virginia Code Article 17-24.
- (c) When any vehicle has been stolen or operated without the consent of the owner.
- (d) When any vehicle displays illegal license plates or fails to display the current lawfully required license plates.
- (e) When any vehicle has been used in or connected with the commission of a felony.
- (f) When any vehicle has been damaged or wrecked so as to be inoperable or violates equipment provisions of this Traffic Code or West Virginia Code Article 17C-15 whereby its continued operation would constitute a condition hazardous to life, limb or property.
- (g) When any vehicle is left unattended due to the removal of an ill, injured or arrested operator.
- (h) When any vehicle has been operated by any person who has failed to stop in case of an accident or collision.
- (i) When any vehicle has been operated by any person who is driving without a lawful license or while his license has been suspended or revoked.

- (j) When any vehicle is found for which two or more citation tags for violations of this Traffic Code have been issued and the owner or operator thereof has failed to respond to such citation tags as lawfully required.

Any vehicle removed under authority of subsection (b) hereof shall be disposed of as provided under West Virginia Code Article 17-24. Any other vehicle removed under authority of this section shall be ordered into storage and the Police Department shall forthwith notify the registered vehicle owner of the fact of such removal and impounding, reasons therefor and the place of storage. Any person desiring to redeem an impounded vehicle shall appear at the Police Department to furnish satisfactory evidence of identity and ownership or right to possession. Prior to issuance of a release form, the claimant, owner or operator shall either pay the amount due for any fines for violations on account of which such vehicle was impounded or, as the court may require, post a bond in an amount set by the court, to appear to answer to such violations. The pound operator shall release such vehicle upon the receipt of the release form and payment of all towage and storage charges.

303.08 RIGHTS OF OWNERS OF REAL PROPERTY.

Nothing in this Traffic Code shall be construed to prevent an owner of real property used by the public for purposes of vehicular travel by permission of the owner and not as matter of right from prohibiting such use, or from requiring other or different or additional conditions than those specified in this Traffic Code, or otherwise regulating such use as may seem best to such owner.

(WVaC 17C-2-9)

303.99 PENALTY.

Whoever violates any provision of this Traffic Code for which another penalty is not provided shall, for a first conviction thereof, be fined not more than one hundred dollars (\$100.00); for a second such conviction within one year thereafter such person shall be fined not more than two hundred dollars (\$200.00); and upon a third or subsequent conviction such person shall be fined not more than five hundred dollars (\$500.00).

**ARTICLE 305
Traffic Control**

305.01 Power of Mayor during emergency.

305.02 Authority of Chief of Police to use signs in regulating traffic.

CROSS REFERENCES

Uniformity with State law required - see W. Va. Code 17C-2-7

Powers of Municipality - see W. Va. Code 17C-2-8

305.01 POWER OF MAYOR DURING EMERGENCY.

During any emergency declared by proclamation of the Mayor, the Mayor is given express power to regulate traffic on or over any streets, alleys, roads, avenues or driveways within the Town.

Any person violating or causing a violation of any regulation prescribed by the Mayor under this section shall be subject to the penalty imposed by Section 303.99. (1969 Code 17-1-11.)

305.02 AUTHORITY OF CHIEF OF POLICE TO USE SIGNS IN REGULATING TRAFFIC.

In regulating traffic and the use of the streets, avenues, alleys and public thoroughfares of the Town by motor vehicles, the Chief of Police, with the approval of the Mayor and Council, is hereby authorized to use such signs or devices upon such streets as the Chief may deem necessary, and the failure to comply with any sign, device or instructions so displayed shall be in violation of this Traffic Code.

Any person who shall move, damage or destroy any such sign or device shall be deemed guilty of a violation of this Traffic Code. (1969 Code 17-3-56.)