



AN ORDINANCE REVISING AND AMENDING SECTIONS 24-228, 24-229, 40-15, 40-81, 40-55, 40-81, and 40-93 OF THE CODE OF ORDINANCES OF THE CITY OF BLUEFIELD

WHEREAS, the Code of Ordinances of the City of Bluefield provides for certain misdemeanor offenses which may be prosecuted in the City's Municipal Court; and

WHEREAS, in many respects, such ordinances are out-of-date and do not address current advancements in the law at the State level; and

WHEREAS, the Board of Directors desires to amend the Code of Ordinances to enable more effective policing and prosecution of common crimes and traffic offenses.

NOW, THEREFORE, IT IS HEREBY ORDAINED that the Code of Ordinances of the City of Bluefield is hereby revised, as follows:

FIRST, Sections 24-228 and 24-229 of the Code of Ordinances of the City of Bluefield is hereby revised and amended to read as follows:

Sec. 24-228. - Possession of controlled substances.

(a)

Definitions. The following words, terms and phrases, when used in this section, shall have the meanings ascribed to them in this subsection, except where the context clearly indicates a different meaning:

Practitioner means either:

(1)

A physician, dentist, veterinarian, scientific investigator, or other person licensed, registered or otherwise permitted to distribute, dispense, conduct research with respect to, or to administer a controlled substance in the course of professional practice or research in this state; or

(2)

A pharmacy, hospital, or other institution licensed, registered, or otherwise permitted to distribute, dispense, conduct research with respect to, or to administer a controlled substance in the course of professional practice or research in this state.

Controlled substance has the meaning ascribed to it in Chapter 60A, Article 1, Section 101 of the West Virginia Code.

(b)

It is unlawful for any person knowingly or intentionally to possess a controlled substance unless the controlled substance was obtained directly from, or pursuant to, a valid prescription or order of a practitioner while acting in the course of his professional practice, or except as otherwise authorized by this Code. Any person who violates this subsection is guilty of a misdemeanor, and disposition may be made under Section 24-229, subject to the limitations specified in said section or upon conviction, such person may be confined in jail not more than 30 days, or fined not more than \$1,000.00, or both; provided that notwithstanding any other provision of this Code to the contrary, any first offense for possession of less than 15 grams of marihuana shall be disposed of under said [section 24-229](#).

Sec. 24-229. - Conditional discharge for first offense of possession of controlled substances.

(a)

Whenever any person who has not previously been convicted of any offense under this Code or under any statute of the United States or of any state relating to narcotic drugs, marihuana, or stimulant, depressant, or hallucinogenic drugs, pleads guilty to or is found guilty of possession of a controlled substance under section 24-228, the court, without entering a judgment of guilt and with the consent of the accused, may defer further proceedings and place him on probation upon terms and conditions. Upon violation of a term or condition, the court may enter an adjudication of guilt and proceed as otherwise provided. Upon fulfillment of the terms and conditions, the court shall discharge the person and dismiss the proceedings against him. Discharge and dismissal under this section shall be without adjudication of guilt and is not a conviction for purposes of this section or for purposes of disqualifications or disabilities imposed by law upon conviction of a crime, including the additional penalties imposed for second or subsequent convictions. The effect of such dismissal and discharge shall be to restore such person in contemplation of law to the status he occupied prior to such arrest and trial. No person as to whom such dismissal and discharge have been effected shall be thereafter held to be guilty of perjury, false swearing, or otherwise giving a false statement by reason of his failure to disclose or acknowledge such arrest or trial in response to any inquiry made of him for any purpose. There may be only one discharge and dismissal under this section with respect to any person.

(b)

After a period of not less than six months which shall begin to run immediately upon the expiration of a term of probation imposed upon any person under this Code, such person may apply to the court for an order to expunge from all official records all recordations of his arrest, trial, and conviction, pursuant to this section. If the court determines after a hearing that such person during the period of such probation and during the period of time prior to his application to the court under this section has not been guilty of any serious or repeated violation of the conditions of such probation, it shall enter such order.

SECOND, Section 40-15 of the Code of Ordinances of the City of Bluefield is hereby revised and amended to read as follows:

Sec. 40-15. - State registration plates; security upon motor vehicles.

(a)

No person shall operate any motor vehicle upon any street in the city unless such person shall display thereon such registration plate in such a manner as may be required by the laws of the state.

(b)

No person may operate any motor vehicle, including any motorcycle, motor-driven cycle, or motor scooter, on any street, alley, roadway or public park of this city unless such vehicle is eligible to be titled and registered under the laws of this or another state and is so titled and registered.

(c)

No person operating any motor vehicle required to be registered and licensed in this state shall operate the same within the city limits without maintaining the security required by W. Va. Code, ch. 17D, art. 2A. No nonresident owner or registrant of a motor vehicle which is operated upon any of the streets or alleys of this city shall operate the same within the city without maintaining such security, unless such vehicle has been physically present within the city or state for less than 30 days during the preceding 365 days. No person shall knowingly drive or operate upon any street or alley within the city any motor vehicle upon which security is required by the provisions of such chapter and article unless such security is in effect. For the purposes of this section, the term "property," as defined in [section 40-3\(a\)](#), shall be included within the definition of the term "street" or "alley."

(d)

Any police officer making investigation of a motor vehicle accident in this state shall, in making such investigation, inquire of the operators of any motor vehicles involved in such accident, and of the department of motor vehicles as to the existence upon any such vehicle of the security required by this section and the aforesaid article. Upon a finding by such police officer that the security required by this section and that article is not in effect, such officer shall promptly notify the department of motor vehicles of such finding.

(e)

Every vehicle registration card shall at all times be carried in the vehicle to which it refers or shall be carried by the person driving or in control of such vehicle who shall display the same upon demand of a police officer or any officer or employee of the department, as required by West Virginia Code Section 17A-3-13

(f)

In addition to any such penalties as may be imposed by the department of motor vehicles, any person violating this section shall be guilty of a misdemeanor and fined or imprisoned as provided in [section 1-8](#).

THIRD, Section 40-55(a)(4) of the Code of Ordinances of the City of Bluefield is hereby revised and amended to read as follows:

Sec. 40-55. - Driver's license required; driving under revocation.

(a)

It is a misdemeanor for any person to commit any one of the following acts:

(4)

To operate any vehicle upon any street in the city or upon any publicly owned area within the city without a valid operator's or chauffeur's license, as may be required by the laws of this state or elsewhere in this Code; and fail to have such license in such person's immediate possession at all times when operating a motor vehicle.

FOURTH, Section 40-81 of the Code of Ordinances of the City of Bluefield is hereby revised and amended to read as follows:

Sec. 40-81. - Approach of emergency vehicles; Stationary emergency vehicles.

(a)

Upon the immediate approach of an authorized emergency vehicle equipped with at least one lighted lamp exhibiting a red light visible under normal atmospheric conditions from a distance of 500 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 possible to, the right-hand edge or curb of the roadway clear of any 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)

(a) The driver of any vehicle approaching a stationary authorized emergency vehicle, when the authorized emergency vehicle is giving a signal by displaying alternately flashing red, red and white, blue, or red and blue lights or amber or yellow warning lights, shall:

(1) Proceed with due caution, yield the right-of-way by making a lane change not adjacent to that of the authorized emergency vehicle, if possible with regard to safety and traffic conditions, if on a highway having at least four lanes with not less than two lanes proceeding in the same direction as the approaching vehicle and reduce speed to a safe level for road conditions; or

(2) Proceed with due caution, reduce the speed of the vehicle, maintaining a safe speed not to exceed fifteen miles per hour on any nondivided highway or street and twenty-five miles per hour on any divided highway depending on road conditions, if changing lanes would be impossible or unsafe.

(b) (i) Any person who violates any subsection of this section is guilty of a misdemeanor and, upon conviction thereof, shall be fined not more than \$500 or confined in jail not more than thirty days, or both fined and imprisoned.

(c)

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 streets.

FIFTH, Section 40-93 of the Code of Ordinances of the City of Bluefield is hereby revised and amended to read as follows:

Sec. 40-93. - Speed limits—General restrictions.

(a)

No person shall drive a vehicle on a street at a speed greater than is reasonable and prudent under the conditions and having regard to the actual and potential hazards then existing. In every event speed shall be so controlled as may be necessary to avoid colliding with any person, vehicle or other conveyance on entering the streets 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 in excess of the limits specified in this section or established as hereinafter authorized shall be lawful, but any speed in excess of the limits specified in this section or established as hereinafter authorized shall be unlawful:

(1)

15 miles per hour when passing a school building or the grounds thereof during school recess or while children are going to or leaving school during opening or closing hours;

(2)

25 miles per hour in any business or residence district.

(3)

The posted speed limits on other streets and highways to the extent that such speed limits exceed the limits set forth above.

(c)

The driver of every vehicle shall, consistent with the requirements of subsection (a) of this section, drive at an appropriate reduced speed when approaching and crossing an intersection or railway grade crossing, when approaching and going around a curve, when approaching a hillcrest, when traveling upon any narrow or winding roadway, and when a special hazard exists with respect to pedestrians or other traffic or by reason of weather or street conditions.

First Reading: February 9, 2021

Second Reading: February 23, 2021

Passed: February 23, 2021



Ron Martin, Mayor

Attest:

Robert Luther, City Clerk