

5832

BEFORE THE COUNTY COUNCIL OF BERKELEY COUNTY, WEST VIRGINIA

**ORDINANCE FACILITATING THE FREE FLOW OF MOTOR VEHICLE TRAFFIC
ON STREETS AND ROADWAYS IN THE COUNTY**

and

PROMOTING THE HEALTH, SAFETY, AND WELFARE OF PEDESTRIANS

The Council hereby finds that any person who distributes any item to, receives any item from or exchanges any item with the occupant of a motor vehicle upon a roadway, street, avenue, lane, or other venue for the passage of vehicular traffic within Berkeley County presents a threat to the free and safe flow of motor vehicles therein and, thereby introduces a nuisance which shall be regulated pursuant to authority granted to the Council by West Virginia Code § 7-1-3kk, 1931, as amended.

The purpose and intent of this ordinance is to promote the health, safety and welfare of all persons traveling by vehicle or on foot in this county.

Definitions:

1. *Pass/Passing.* Distributing any item to, receiving any item from, or exchanging any item with the occupant of a motor vehicle that is located in a lane of travel for the passage of such vehicular traffic.
2. *Venue for the passage of vehicular traffic.* All public roads open to motorized vehicles within the county. This definition excludes areas in which parking is permitted in the county and any private roadway and venue on private property.
3. *Item.* Any physical object.

Violations:

1. The passing or handing of any item to another person(s) outside of a vehicle while the occupant of such vehicle is traveling in a lane of travel for the passage of vehicular traffic.
2. The receipt by any occupant of a motor vehicle of any item from a person outside a vehicle when such vehicle is in a lane of travel for the passage of vehicular traffic.
3. The exchange of any item(s) between persons occupying a motor vehicle and persons outside of such vehicle when such vehicle is in a lane of travel for the passage of vehicular traffic.

This ordinance shall not apply to any law enforcement officer acting in the scope of his/her official duty.

This ordinance shall not apply to the distribution, handing, passing, or exchange of any item(s) with the occupant of a motor vehicle located in a lane of travel for vehicular

traffic in order to assist the occupant after a motor vehicle accident, with a disabled motor vehicle or where the occupant is experiencing a medical emergency.

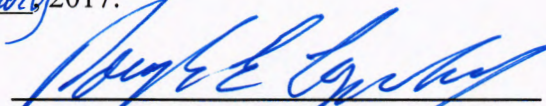
Penalty:

1. Violation of this ordinance shall be a misdemeanor and, upon proof of such violation, a fine of \$1,000.00, or the imposition of 20 hours of supervised public service, or both shall be imposed upon the person(s) found guilty of such violation.

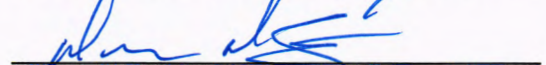
Severability:

If any provision of this section is declared invalid or unconstitutional by any court of competent jurisdiction, the remaining provisions shall be considered severable and shall continue in full force and effect.

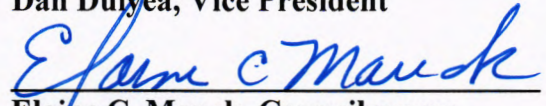
Enacted this the 23rd day of FEBRUARY 2017.



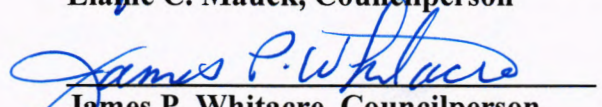
Douglas E. Copenhaver, Jr., President



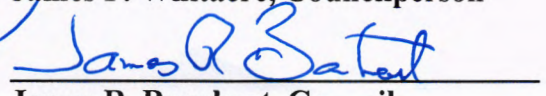
Dan Dulyea, Vice President



Elaine C. Mauck, Councilperson



James P. Whitacre, Councilperson



James R. Barnhart, Councilperson

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