

**ARTICLE 505**  
**Animals and Fowl**

<p><b>505.01</b> Cruelty to animals.  <b>505.02</b> Cruelty to dogs and cats.  <b>505.03</b> Nuisance conditions prohibited.  <b>505.04</b> Barking or howling animals.  <b>505.05</b> Hunting prohibited.</p>	<p><b>505.06</b> Animals running at large.  <b>505.07</b> Keeping vicious dogs or dogs having rabies.  <b>505.08</b> Dog registration fee.  <b>505.09</b> Dogs at large.  <b>505.99</b> Penalty.</p>
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**CROSS REFERENCES**

Authority to regulate the keeping of animals - see  
W. Va. Code 8-12-5(26)  
Authority to prevent ill-treatment of animals - see  
W. Va. Code 8-12-5(27)  
Domestic animal tax - see W. Va. Code 8-13-10  
Disposing of dead animals - see W. Va. Code 16-9-3  
Diseases among domestic animals - see W. Va. Code  
Art. 19-9  
Dogs generally - see W. Va. Code Art. 19-20  
Vaccination of dogs - see W. Va. Code Art. 19-20A  
Hunting - see W. Va. Code Art. 20-2

**505.01 CRUELTY TO ANIMALS.**

(a) No person shall cruelly mistreat, abandon or withhold proper sustenance, including food, water, shelter or medical treatment necessary to sustain normal health and fitness or to end suffering or abandon any animal to die, or use, train or possess any domesticated animal for the purpose of seizing, detaining or mistreating any other domesticated animal.

(b) No person, other than a licensed veterinarian or a person acting under the direction or with the approval of a licensed veterinarian, shall knowingly and willfully administer or cause to be administered to any animal participating in any contest any controlled substance or any other drug for the purpose of altering or otherwise affecting such animal's performance.

(c) Any person convicted of a violation of this section shall forfeit his or her interest in any such animal and all interest in such animal shall vest in the humane society or county pound of the county in which the conviction was rendered, and such person shall, in addition to any fine imposed, be liable for any costs incurred or to be incurred by the humane society or county pound as a result.

(d) For the purpose of this section, "controlled substance" has the same meaning ascribed to it by West Virginia Code 60A-1-101(d).

(e) The provisions of this section do not apply to lawful acts of hunting, fishing, trapping or animal training or farm livestock, poultry, gaming fowl or wildlife kept in private or licensed game farms if kept and maintained according to usual and accepted standards of livestock, poultry, gaming fowl or wildlife or game farm production and management, nor to humane use of animals or activities regulated under and in conformity with the provisions of 7 U.S.C. Section 2131 et seq. and the regulations promulgated thereunder, as both such statutes and regulations are in effect on the effective date of this section.  
(WVaC 61-8-19)

#### **505.02 CRUELTY TO DOGS AND CATS.**

No person shall cruelly, or needlessly beat, torture, torment, mutilate, kill or willfully deprive necessary sustenance, to any dog or cat, irrespective of whether any such dog or cat is his or her own or that of another person. No person shall impound or confine any dog or cat in any place unprotected from the elements or fail to supply the same with a sufficient quantity of food and water, or abandon to die any maimed, sick or diseased dog or cat or be engaged in or employed at dogfighting, or pitting one dog or cat to fight against another dog or cat or any similar cruelty to any dog or cat, or receive money for the admission of any person, or use, train or possess a dog or cat for the purpose of seizing, detaining or mistreating any other dog or cat.  
(WVaC 61-8-19a)

#### **505.03 NUISANCE CONDITIONS PROHIBITED.**

No person shall keep or harbor any animal or fowl in the Municipality so as to create noxious, or offensive odors or unsanitary conditions which are a menace to the health, comfort or safety of the public.

#### **505.04 BARKING OR HOWLING ANIMALS.**

No person shall keep or harbor any animal within the Municipality which, by frequent and habitual barking, howling or yelping, or other sounds, creates unreasonably loud and disturbing noises of such a character, intensity and duration as to disturb the peace, quiet and good order of the Municipality. Any person who shall allow any animal habitually to remain, be lodged or fed within any dwelling, building, yard or enclosure, which he occupies or owns, shall be considered as harboring such animal.

#### **505.05 HUNTING PROHIBITED.**

No person shall hunt, kill or attempt to kill any animal or fowl by the use of firearms, bow and arrow, air rifle or any other means within the corporate limits of the Municipality.

#### **505.06 ANIMALS RUNNING AT LARGE.**

(a) No person being the owner or having charge of horses, cattle, sheep, geese, ducks, turkeys, chickens or other fowl or animals shall permit them to run at large upon any public place, or upon any unenclosed lands, or upon the premises of another.

(b) The running at large of any such animal in or upon any of the places mentioned in this section is prima-facie evidence that it is running at large in violation of this section.

**505.07 KEEPING VICIOUS DOGS OR DOGS HAVING RABIES.**

(a) No person shall own, keep or harbor any dog known by the person or which, in the exercise of reasonable diligence the person should know, to be vicious, dangerous or in the habit of biting or attacking persons.

No person shall own, keep or harbor any dog known by the person or which, in the exercise of reasonable diligence the person should know, to be suffering from rabies.

Vicious or dangerous dogs are hereby declared to be public nuisances and a menace to the public safety. (1969 Code 4-21.)

(b) If the Mayor shall find, as a result of a hearing held upon a complaint, that any dog is vicious, dangerous or in the habit of biting or attacking persons, or is suffering with rabies infection, or that any dog has been bitten by a dog suffering from rabies infection, the Mayor may order or cause such dog to be destroyed as a menace to the public safety, and the owner or keeper of such dog shall be liable for all fines and costs assessed. (1969 Code 4-22.)

**505.08 DOG REGISTRATION FEE.**

(a) Every person owning or keeping any dog within the corporate limits shall pay an annual registration fee of two dollars (\$2.00) for male dogs and three dollars (\$3.00) for female dogs on each dog so kept or owned.

(b) It shall be the duty of the Assessor to take and return to Council, together with the Assessor's annual assessment, an accurate list of all persons owning or keeping any dogs within the Town, showing the number of such dogs kept by each person and the sex of such dogs; and it shall be the duty of the Assessor to make out and deliver said list to the Mayor.

(c) Any person who shall fail truly to report when required by the Assessor the number of dogs owned or kept by the person, and the sex of same, shall be liable for every such offense to a fine as provided in Section 501.99.

(d) Every person who shall become the owner or possessor of any dog after the time of the annual assessment shall register the same with the office of the Mayor and pay the Mayor the registration fee required by this section; any person failing to comply with this section within thirty days after acquiring such ownership or possession shall be fined as provided in Section 501.99. (Ord. 6-4-85.)

**505.09 DOGS AT LARGE.**

(a) Every person owning or keeping any dog within the corporate limits shall be responsible for keeping such dog leashed at all times when such dog is off the property of said owner or keeper.

(b) Whenever the Mayor shall be satisfied that any case of hydrophobia has appeared among the dogs in the Town, the Mayor shall issue a proclamation requiring all persons to confine their dogs or to have the same securely muzzled for such time from and after issuing of such proclamation as he shall therein appoint; and if any dog shall be found at large in the Town during the time so appointed, without being properly and securely muzzled, the same may be killed by any person whatsoever and the owner and keeper thereof shall pay a fine as provided in Section 501.99.

(c) Whenever any dog subject to such registration fee is off the property of his owner or keeper, then such dog shall at all times be leashed and shall at all times display an attached license tag. Whenever such dog subject to such registration is found running at large unleashed within the corporate limits or found without an attached license tag showing the same to have been registered for the current year in accordance with the above provisions of this article, whether or not such animal is leashed, it shall be the duty of the Mayor, or the Mayor's designee, to see that such animal is taken into custody and impounded for a period of three days. At the end of such period if no offer has been made by the owner thereof to the proper authorities to pay the full amount of any assessed fines and/or unpaid registration fees, with costs of such impounding, it shall be the duty of the Mayor, or designee, to destroy such animal by an effective method at the Mayor's discretion.

(Ord. 6-4-85.)

**505.99 PENALTY.**

(EDITOR'S NOTE: See Section 501.99 for general Code penalty if no specific penalty is provided.)

- (a) (1) Whoever violates Section 505.01(a) shall be fined not less than one hundred dollars (\$100.00) nor more than one thousand dollars (\$1,000), for a first offense. Any person convicted of a second violation of Section 505.01(a) shall be fined not less than five hundred dollars (\$500.00) nor more than one thousand dollars (\$1,000), or both.
- (2) Notwithstanding any provision of this Code to the contrary, no person who has been convicted of a second or subsequent violation of the provisions of Section 505.01(a) may be granted probation until the defendant has undergone a complete psychiatric or psychological evaluation and the court has reviewed such evaluation. Unless the defendant is determined by the court to be indigent, he or she shall be responsible for the cost of said evaluation.
- (3) In addition to any other penalty which can be imposed for a violation of Section 505.01, a court may, as a condition of probation, prohibit any person so convicted from possessing or owning any animal or type of animal during the period of probation.

(b) Whoever violates Section 505.01(b) shall be fined not less than one hundred dollars (\$100.00) nor more than one thousand dollars (\$1,000).  
(WVaC 61-8-19)

(c) Whoever violates Section 505.02 shall be fined not more than one thousand dollars (\$1,000). In addition the Humane Officer may remove the dog or cat involved and place it in the pound and such dog or cat shall not be returned to the owner or perpetrator of the act of cruelty, but shall be put up for adoption to a desirable home or given into the care of a humane society or upon the recommendation of a licensed veterinarian shall be humanely destroyed.  
(WVaC 61-8-19a)