

ARTICLE 505
Animals and Fowl

505.01	Dogs and other animals running at large.	505.08	Impoundment.
505.02	Keeping animals; pens and stables.	505.09	Rabies control.
505.03	Cruelty to animals.	505.10	Bird sanctuary.
505.031	Cruelty to dogs and cats.	505.11	Sale of fowl and rabbits.
505.04	Vicious or dangerous animals.	505.12	Barking, howling or squalling dogs or other animals.
505.05	Concealing dog to avoid payment.	505.13	Animal Control Officer.
505.06	Violation of quarantine.	505.14	Spaying and neutering.
505.07	Trespassing upon or damaging property of another.	505.15	Identification tags for cats.
		505.16	Animal defecation.
		505.17	Trapping prohibited.
		505.99	Penalty.

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; BUS. & TAX. 751.46

Diseases among domestic animals - see W. Va. Code Art. 19-9

Hunting - see W. Va. Code Art. 20-2

Dogs generally - see W. Va. Code Art. 19-20

Vaccination of dogs for rabies - see W. Va. Code Art. 19-20A

505.01 DOGS AND OTHER ANIMALS RUNNING AT LARGE.

(a) No person being the owner or having charge of 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) No person being the owner of or having charge of any dog shall permit it to run at large upon any public place or upon the premises of another. Dogs not confined on the owner's property shall be maintained on a leash of a length no longer than six feet. The name and address of the owner and the City tax tag shall be attached to the collars of dogs at all times. The regulations governing the keeping of dangerous dogs as set forth in Section 505.04 shall supersede any conflicting provisions within this subsection.

(c) 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.

- (d) Whoever violates Section 505.03(b) shall be fined not less than one hundred dollars (\$100.00) nor more than one thousand dollars (\$1,000).
(WVaC 61-8-19)
- (e) Whoever violates Section 505.031 shall be fined not more than one thousand dollars (\$1,000) or imprisoned not more than thirty days, or both. 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.

(d) For purposes of this section, cats shall be permitted to run at large only if such cat is wearing identification as set forth in Section 505.15.

(e) Should any dog, while running at large, bite or otherwise inflict injury upon any person, the person or owner having charge of any such dog shall be guilty of a misdemeanor, shall be fined five hundred dollars (\$500.00), and may be ordered by the Municipal Judge to provide restitution, where appropriate. A conviction for the violation of this particular subsection shall not be a prerequisite for the filing of a civil action by the victim of any such dog incident. (Ord. 00-11. Passed 4-18-00.)

505.02 KEEPING ANIMALS; PENS AND STABLES.

(a) Rabbits. No person shall confine, keep or house live rabbits, exceeding two in number, within the City, in any pen, coop or structure located within 120 feet of the residence or dwelling of any other person without the consent of such person in writing. (1967 Code Sec. 4-4.)

(b) Permitting Pens to Become Offensive. No person shall permit any yard, kennel, pen, coop, or other structure wherein live animals may be confined, kept or housed to become or be offensive, noxious or deleterious to health. (Ord. 94-77. Passed 10-18-94.)

(c) Chickens. No person shall confine, keep or house chickens or other domestic fowl, exceeding two in number, in any pen, coop or structure located within eighty feet of the residence or dwelling of any other person without the consent in writing of such other person; provided, that this section shall not be construed to prohibit the proprietor of any market, hotel, restaurant, boarding house or residence from keeping or confining for sale or slaughter chickens or other fowls in a pen or coop within such prescribed limit for a period not exceeding ten days; provided that such pen or coop is thoroughly cleaned at least once during each forty-eight hour period and rendered free from offensive, noxious or deleterious odors. (1967 Code Sec. 4-6.)

(d) Permitting Coops to Become Offensive. No person shall permit any pen, coop or other structure wherein chickens or other fowl may be confined, kept or housed, to become offensive, noxious or deleterious to health. (1967 Code Sec. 4-7.)

(e) Stables. Whoever shall keep a stable within the City shall cause all the stable manure produced thereat to be kept within such stable until hauled away, and he shall in no case allow such manure to accumulate in such quantities or condition as to become offensive, or deleterious to health; and all manure so kept within the stable shall be protected from flies by means of screens or other fly-excluding devices. The floor of every stable shall be kept free from standing or seeping stable liquids, excrements and other offensive matters. (1967 Code Sec. 4-8.)

- E. Said WV DNR licensed ADC Agent must contact the City Manager's office within twenty-four hours of removing any such trap and notify him/her of the location from which said trap(s) have been removed.
- F. Said WV DNR licensed ADC Agent may only use trapping relocation methods and procedures authorized by the WV DNR.

(e) **Penalty.** Any person, firm, corporation or association violating any provision of this section shall be fined not less than twenty dollars (\$20.00) nor more than five hundred dollars (\$500.00) for each offense, and a separate offense shall be deemed committed for each day that a violation continues. (Ord. 99-05. Passed 2-16-99.)

505.99 PENALTY.

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

- (a) Whoever violates Section 505.01(b) shall be fined not more than one hundred dollars (\$100.00). Second offenders of Section 505.01(b) shall be subject to the penalty provided in Section 501.99 and also be given the alternative of paying the maximum fine under this section or present evidence of having their dogs spayed or neutered within thirty days of any violations hereof.
- (b) Whoever violates Section 505.11 shall be fined not more than twenty-five dollars (\$25.00); provided, that after any violation has been called to the attention of the violator by any member of the Police Department of this City, each day on which such violation continues or is repeated shall constitute a separate offense.
(1967 Code Sec. 4-27; Ord. 90-8. Passed 4-3-90.)
- (c)
 - (1) Whoever violates Section 505.03(a) shall be fined not less than three hundred dollars (\$300.00) nor more than one thousand dollars (\$1,000) or imprisoned not more than thirty days, or both, for a first offense. Any person convicted of a second or subsequent violation of Section 505.01(a) shall be imprisoned for not more than thirty days or fined not less than five hundred dollars (\$500.00) nor more than two thousand dollars (\$2,000), or both. The incarceration set forth in this subsection shall be mandatory unless the provisions of subsection (c)(2) are complied with.
 - (2) Notwithstanding any provision of this Code to the contrary, no person who has been convicted of a violation of the provisions of Section 505.03(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 505.03, a court shall prohibit any person so convicted from possessing, owning or residing with any animal or type of animal for a period of five years following entry of a conviction. A violation under this subsection is punishable by a fine not exceeding two thousand dollars (\$2,000) and forfeiture of the animal.

505.03 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)

505.031 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)

(b) Any person who violates this section shall be fined twenty-five dollars (\$25.00).
(Ord. 97-29. Passed 10-21-97.)

505.17 TRAPPING PROHIBITED.

(a) Purpose. It is the purpose of this section to prevent the potential harm that may be inflicted upon people, particularly children, and to prevent the maiming, unselective catching, and destruction of wild animals and birds and domestic animals that come in contact with traps.

(b) Definitions. As used in this section, the terms below have the meanings described.

- (1) "Trap" means any mechanical device or snare which seeks to hold, capture or kill an animal.
- (2) "Trapping" means the setting or laying or otherwise using of a trap.
- (3) "Nuisance animal" means a wild animal that is either causing property damage or threatening public health and safety, and does not include domesticated animals.

(c) Trapping Prohibited. No person, firm, corporation or association shall do any trapping anywhere in the City. Traps discovered by the Animal Control Officer of the City which have been unlawfully set in the City may be seized and used as prima facie evidence that a violation has been committed.

(d) Exceptions.

- (1) The provisions of this section do not apply to the use of any trap specifically designed to kill rats, mice, or moles with the consent of the owner or occupant of the real property where the trap is set.
- (2) The provisions of this section do not apply to cage-type live traps employed for the control of nuisance animals so long as such traps are approved by the Animal Control Officer of the City, set with the consent of the real property owner or occupant, and are tended to at least once every twenty-four hours.
- (3) The provisions of this section do not apply to WV DNR licensed ADC Agents subject to the following conditions:
 - A. Any such trapping will only be done at the request of the property owner upon whose land traps will be set;
 - B. Any such trapping will be for the sole purpose of removing nuisance animals;
 - C. Prior to setting any such trap, the trapper must provide the City Manager with documentation evidencing that he/she is currently licensed by the WV DNR as an ADC Agent.
 - D. Any such WV DNR licensed ADC Agent who is retained by a property owner to trap nuisance animals must, within twenty-four hours of setting any such trap, contact the City Manager's Office and notify him/her as to the name of the property owner, the address of the property upon which trapping will take place, the nuisance animal being trapped, and the type and number of traps being set on said property;

505.04 VICIOUS OR DANGEROUS ANIMALS.

No person shall keep any animal which is known to be vicious or dangerous within the City, unless the same shall be kept securely confined. Furthermore, any person who keeps a dog which is generally considered to be vicious, for the purpose of protection, shall be required to license and secure the dog as set forth in West Virginia Code 19-20-21, as amended, or as may be hereafter amended.
(Ord. 94-77. Passed 10-18-94.)

505.05 CONCEALING DOG TO AVOID PAYMENT.

No person shall hide, conceal or secrete any taxable dog to avoid the assessment and head tax on such dog or prevent the seizure and impounding of any dog on which such tax is not paid.
(1967 Code Sec. 4-12.)

505.06 VIOLATION OF QUARANTINE.

When the Commissioner of Agriculture of the State, or any other officer duly authorized to do so, has established a quarantine on dogs in the area occupied by the City, any dog found running at large in such quarantined area in the City may be seized and confined, or may be shot or otherwise destroyed by any person.
(1967 Code Sec. 4-14.)

505.07 TRESPASSING UPON OR DAMAGING PROPERTY OF ANOTHER.

No person having the possession of a dog shall lead or take such dog upon the private property of another without permission, or knowingly permit any such dog to soil on, damage or destroy the yards, flowers or shrubbery of another person, or otherwise trespass upon the property of another without permission. No person having the possession of a cat shall knowingly permit any such cat to soil on, damage or destroy yards, flowers or shrubbery of another person or otherwise damage the property of another. For purposes of this section, "knowingly" means that the person having possession of a dog or cat has been made aware, by previous incidents, of its propensity to destroy or damage the property of another, and has failed to take action which will prohibit the same.
(Ord. 94-77. Passed 10-18-94.)

505.08 IMPOUNDMENT.

The City may establish a dog pound and keep therein dogs seized under any of the provisions of this article. Any dog for which the head tax is delinquent, or any dog found running at large in the City, may be seized and impounded. The owner or keeper of any impounded dog may have such dog upon paying the delinquent tax, if any, thereon and the impounding fees. If not paid, such dog may be sold and there shall be deducted from the proceeds of such sale the delinquent tax, if any, and the impounding fees, and the residue, if any, shall be paid over to the owner of such dog. If such dog is not sold, it may be killed and its body disposed of by the City without liability to the owner.
(1967 Code 4-16.)

(c) When any animal has been seized and impounded, the Animal Control Officer shall forthwith give notice to the owner of such animal, if such owner is known, that such animal has been impounded and that it will be sold or destroyed if not redeemed within five days. If the owner of such animal is not known to the Animal Control Officer, he shall post a notice at the County Dog Pound. The notice shall describe such animal and the place where seized, and shall advise the unknown owner that such animal, will be sold or destroyed if not redeemed within five days.

(d) Reasonable costs and fees, in such amount as may be determined from time to time by Council shall be assessed against every animal seized and impounded under the provisions hereof, and in this particular, there shall be assessed against every animal seized or impounded an administrative fee of ten dollars (\$10.00).

(e) The owner, keeper or harbinger of any animal seized and impounded under the provisions hereof may, at any time prior to the expiration of five days from the time that notice of the seizure and impounding of the animal shall have been given or posted as required by this section, redeem the same by paying to the Animal Control Officer, or his authorized agent or deputy, all of the costs assessed against each animal, and, in the case of dogs, by providing a valid certificate of registration and/or registration tag for such dog.

(f) The Animal Control Officer is hereby authorized to issue citations for the violation of any City ordinance pertaining hereto.

(g) Nothing herein shall constitute a waiver of any ordinances that provide for the arrest and fine for violation of City ordinances related to animals.
(Ord. 99-13. Passed 4-20-99.)

505.14 SPAYING AND NEUTERING.

The City of Morgantown recognizes that locally numerous dogs and cats are euthanized each year because they are not wanted. For that reason the City of Morgantown encourages all dog and cat owners to contact the Monongalia County Humane Society for information regarding spaying and neutering. (Ord. 94-77. Passed 10-18-94.)

505.15 IDENTIFICATION TAGS FOR CATS.

The City recommends that the name and address of any cat's owner be attached to his or her cat by means of a collar, tattoo, implanted identification chip or other recognizable means. (Ord. 94-77. Passed 10-18-94.)

505.16 ANIMAL DEFECATION.

(a) No owner or custodian of any animal shall cause or allow such animal to soil, defile or defecate on any public property or upon any street, sidewalk, public way, or upon private property other than that of the owner, unless such owner or custodian immediately removes and disposes of all feces deposited by such animal by the following methods:

- (1) Collection of the feces by appropriate implement and placement in a paper or plastic bag or other container; and
- (2) Removal of such bag or container to the property of the animal owner or custodian and disposition thereafter in a manner as otherwise may be permitted by law.

505.09 RABIES CONTROL.

(a) Vaccination Required. Whoever owns, keeps or harbors a dog or cat within the City shall, once every two years have such dog or cat properly vaccinated or immunized against rabies as provided by West Virginia Code 19-20A-1 to 19-20A-8, as amended, or hereafter amended; provided, however, that dogs need not be vaccinated before the age of five months and cats before the age of three months; and provided, further, that dogs or cats entering the City temporarily cannot be kept and maintained within the City for a period of more than thirty days unless properly vaccinated.

(b) Record of Vaccination. Whoever vaccinates or revaccinates a dog or cat against rabies shall keep a record of such vaccination or revaccination, and shall dispose of such record as provided in West Virginia Code 19-20A-3, as amended or hereafter amended.

(c) Vaccination Tag. Any dog vaccinated or revaccinated as required by this article shall have a tag indicating the year of vaccination and the number of the record of such vaccination on such tag, which tag shall be securely fastened to the collar worn by the dog.

(d) Violations of Subsections (a), (b) or (c). No person who owns, keeps or harbors a dog or cat within the City shall fail to have such dog or cat vaccinated or revaccinated against rabies; fail or refuse to keep the required report of such vaccination; fail or refuse to provide the required tag; or obstruct or interfere in any way with the enforcement of any provisions of subsections (a), (b) or (c).

(e) Dogs, Cats, etc.; Rabies Observation. Any person who owns or harbors any dog, cat or other domesticated animal, whether licensed or unlicensed, which bites any person, shall forthwith confine and quarantine the animal for a period of ten days for rabies observation. If any unvaccinated domesticated animal is bitten by a rabid animal, the owner shall confine the bitten animal for a period of six months. The animal shall be vaccinated or revaccinated after five months. If such animal is not so confined and quarantined, as required herein, the municipal Animal Control Officer may cause such animal to be placed in the custody and care of a licensed veterinarian for such purpose at the owner's expense. The penalty for any violation of this subsection shall be a fine of fifty dollars (\$50.00) and/or incarceration for a period of not less than two nor more than three days. (Ord. 99-52. Passed 11-16-99.)

505.10 BIRD SANCTUARY.

(a) Designation of Krepps Park as Bird Sanctuary. The entire area embraced within Krepps Park is hereby designated as a bird sanctuary. (1967 Code Sec. 4-21.)

(b) Unlawful to Hunt or Trap Birds in Park Area; Destruction of Birds.

- (1) No person shall trap, hunt, shoot or attempt to shoot or molest in any manner any bird or wild fowl or rob bird nests or wild fowl nests within such park area, except as provided for hereafter.
- (2) In the event that starlings, sparrows, pigeons or other similar birds are found to be congregating in such numbers in the park area that they constitute a nuisance or menace to health or property in the opinion of the County Health Officer or the City Manager, such authorities shall meet with representatives of the Audubon Society Bird Club, Garden Club or Humane Society, or as many of such clubs as are found to exist in the City, after having given at least three days written notice of the time and place of such meeting to the representatives of the clubs to determine the method or procedure of eliminating any such nuisance or

health condition. If as a result of such meeting no satisfactory alternative is found to abate such nuisance or health condition, then such birds may be destroyed in such numbers and in such manner as is deemed advisable by the County Health Officer under the supervision of the Chief of Police. (1967 Code Sec. 4-22.)

(c) City Not to Relinquish Control Over Krepps Park. The designation of Krepps Park area as a bird sanctuary shall in no way be construed as a relinquishment of the City's control over the Krepps Park area and any organization or persons who desire to sponsor any programs relative to the bird sanctuary shall not commence or implement any such program without first obtaining the approval of the City Manager. (1967 Code Sec. 4-23.)

505.11 SALE OF FOWL AND RABBITS.

(a) Sale or Raffle of Artificially Colored Chicks or Rabbits Prohibited. No chick, duckling, gosling or rabbit that has been dyed or otherwise colored artificially may be sold or offered for sale, raffled, offered or given as a prize, premium or advertising device, or displayed in any store, carnival or other public place. (1967 Code Sec. 4-24.)

(b) Restrictions on Sale of Chicks. Chicks, ducklings, and goslings younger than four weeks of age may not be sold or offered for sale, raffled or offered or given as a prize, premium or advertising device, in quantity of less than six birds to an individual person. (1967 Code Sec. 4-25.)

(c) Care of Chicks Offered for Sale. Stores, shops, vendors and others offering chicks, ducklings or goslings for sale, raffle or as a prize, premium or advertising device, or displaying chicks, ducklings or goslings to the public, shall provide and operate brooders or other heating devices that may be necessary to maintain the chicks, ducklings or goslings in good health and shall keep adequate food and water available to the birds at all times. (1967 Code Sec. 4-26.)

505.12 BARKING, HOWLING OR SQUALLING DOGS OR OTHER ANIMALS.

No person shall keep or harbor any dog or other animal within the Municipality which, by frequent and habitual barking, howling, yelping, crying or squalling creates unreasonably loud and disturbing noises of such character, intensity and duration as to disturb the peace, quiet and good order of the Municipality. Any person who shall allow any dog or other 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 dog or other animal.

(Ord. 94-77. Passed 10-18-94.)

505.13 ANIMAL CONTROL OFFICER.

(a) The City Manager is hereby authorized to employ an Animal Control Officer to work at such hours and for pay as set by Council.

(b) The Animal Control Officer shall patrol the City and enforce all ordinances related to dogs and other domestic animals, and shall seize on sight and impound any dog found running at large, and further seize and impound any dog not wearing a valid registration tag, except dogs kept constantly confined in a registered dog kennel.