

AN ORDINANCE OF THE COUNCIL OF THE CITY OF WHEELING
AMENDING AND REENACTING ARTICLE 507 OF THE CODIFIED
ORDINANCES OF THE CITY OF WHEELING ENTITLED DOGS
AND CATS TO ADD §507.14 ENTITLED FEEDING OF
FERAL, STRAY AND/OR UNDOMESTICATED CATS/FELINES

BE IT ORDAINED BY THE COUNCIL OF THE CITY OF WHEELING:

Section 1. The Council of the City of Wheeling does hereby amend and reenact Article 507, entitled Dogs and Cats, of the Codified Ordinances of the City of Wheeling, to be amended by adding §507.14 as follows:

ARTICLE 507

Dogs and Cats

- 507.01 Dog registration and tag required.
- 507.02 Dog licenses.
- 507.03 Removal or alteration of dog registration or tag.
- 507.04 City pound.
- 507.05 Dogs and cats running at large.
- 507.06 Seizure of dog or cat running at large; impounding.
- 507.07 Nuisance by animals.
- 507.08 Keeping of numerous dogs and cats.
- 507.09 Confinement of female dogs.
- 507.10 Obstructing City Manager or authorized representative.
- 507.11 Voluntary sterilization of adopted animals; credit. (Repealed)
- 507.12 Cruelty to dogs and cats.
- 507.13 Unlawful Noise by Dogs and/or Cats
- 507.14 Feeding of Feral, Stray and/ or Undomesticated Cats/ Felines
- 507.99 Penalty.

CROSS REFERENCES

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

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

Domestic animal tax - see W. Va. Code 8-13-10

507.01 DOG REGISTRATION AND TAG REQUIRED.

Any person owning, possessing or harboring a dog above the age of six months within the City shall have the same registered with the County Assessor prior to the beginning of each fiscal year and shall have the tag issued upon registration securely fastened upon the collar worn by such dog.

The failure to have displayed or worn on any dog, at any time, of such valid tag shall be prima-facie evidence that such dog is not registered and such dog shall be impounded, sold or destroyed as provided by State law.

(Ord. 7369. Passed 9-8-81.)

507.02 DOG LICENSES.

The annual license fee to keep or maintain a dog shall be as follows:

- (a) Male dog: \$1.25;
- (b) Female dog: \$2.00;
- (c) Spayed female dog: \$1.25.

Applications for licenses shall be made to, and licenses issued by, the County Assessor upon the payment of the specified fee. All such dog licenses shall be issued for the fiscal year and shall be valid from the date on which issued until June 30 of that fiscal year.

(Ord. 7369. Passed 9-8-81.)

507.03 REMOVAL OR ALTERATION OF DOG REGISTRATION OR TAG.

No person shall remove, alter or forge any certificate or tag provided for in this article, or display, present or utter such certificate as valid with knowledge that it has been altered or forged, or knowingly cause or permit any dog owned, kept or harbored by him to wear any fictitious, altered or invalid registration tag in place of a valid tag as required by this article.

(Ord. 7369. Passed 9-8-81.)

507.04 CITY POUND.

The City Manager is authorized to provide within the City a suitable pound for animals seized under the provisions of this article.

(Ord. 7369. Passed 9-8-81.)

507.05 DOGS AND CATS RUNNING AT LARGE.

No person owning or possessing any dog or cat shall permit the same to run at large. For the purpose of this paragraph, "running at large" means the presence of a dog or cat at any place except upon the premises of the owner.

A dog or cat shall not be considered to be running at large if it is on a leash or otherwise under control of a person physically able to control it.

No dog or cat shall be permitted in any cemetery.

(Ord. 7369. Passed 9-8-81.)

507.06 SEIZURE OF DOG OR CAT RUNNING AT LARGE; IMPOUNDING.

Any dog or cat found to be running at large may be seized by any humane officer or police officer and impounded. All dogs and cats seized and impounded shall be kept housed and fed for seven days after notice of seizure and impounding has been given or posted as required by State law. At the expiration of this period, all dogs and cats which have not been redeemed as herein provided by their owners shall be sold or humanely destroyed. No dog sold as herein provided shall be discharged from the pound until such dog has been registered and provided with a valid registration tag.

The owner, keeper or harbinger of any dog or cat seized and impounded under this section may, at any time prior to the expiration of seven days from the time that the notice of the seizure and impounding of the dog or cat has been given or posted as required by State law, redeem the same by paying to the Humane Officer or his authorized agent or deputy all the costs assessed against such dog or cat, and by providing a valid certificate of registration and registration tag for such dog.

Reasonable costs and fees, in such amount as may be determined from time to time by the City

Manager, shall be assessed against every dog or cat seized and impounded under this section. Such costs shall be a valid claim in favor of the City against the owner, keeper or harbinger of any dog or cat seized and impounded under this section and not redeemed or sold as herein provided, and such costs may be recovered by the City in a civil action against such owner, keeper or harbinger.

A record of all dogs and cats impounded, the disposition of such animals, and a statement of costs assessed against each such dog or cat shall be kept by the Humane Officer.

(Ord. 7369. Passed 9-8-81.)

507.07 NUISANCE BY ANIMALS.

No owner, keeper or walker of any cat or dog shall permit such animal to discharge excreta upon any public or private property within the City, other than the property of the owner of such cat or dog, unless such owner, keeper or walker immediately thereafter removes and cleans up such animal's excreta.

(Ord. 7369. Passed 9-8-81.)

507.08 KEEPING OF NUMEROUS DOGS AND CATS.

The keeping of an unlimited number of dogs and cats in the City for a considerable period of time detracts from and, in many instances, is detrimental to the healthful and comfortable life for which such areas were created. The keeping of an unlimited number of dogs and cats may therefore be declared a public nuisance.

No person who owns, keeps or possesses any dogs or cats shall fail to exercise proper care and control of such animals to prevent them from becoming a public nuisance. Excessive, continuous or untimely barking or crying, molesting passersby, chasing vehicles, habitually attacking other domestic animals, trespassing upon school grounds, or trespassing upon private property in such manner as to damage property and similar acts, shall be deemed a nuisance.

No person who owns, keeps or possesses any dogs or cats shall fail to provide such animals with sufficient good and wholesome food and water, proper shelter and protection from the weather, veterinary care when needed to prevent suffering, and with humane care and treatment. No person shall beat, cruelly illtreat, torment or otherwise abuse any dog or cat, or cause or permit any dogfight, or other combat between animals or between animals and humans. No person, for any such reason, shall crop a dog's ears except when a licensed veterinarian issues a signed certificate that the operation is necessary for the dog's health or comfort and in no event shall any person except a licensed veterinarian perform such an operation.

No person who owns, keeps or possesses any number of dogs or cats shall fail to maintain any enclosure or other place such animal is kept in a clean or sanitary condition. Further, such place must be free of any unwholesome or offensive substance, liquid or odor. Conditions which exist contrary to these requirements shall be deemed a public nuisance.

Upon receiving a signed complaint, the City Manager or his duly authorized representative, upon displaying proper identification may enter any building, structure or premises in the City during reasonable hours to determine if the keeping of any dogs or cats thereon constitutes a public nuisance. If any person refuses entrance to such City official during reasonable hours, such official may seek an order from the Circuit Court to permit such entry to the premises as may be necessary to ensure compliance with this section.

Any person found to be in violation of this section shall be fined not less than fifty dollars (\$50.00) nor more than five hundred dollars (\$500.00) This penalty is in addition to those set forth in other sections.

(Ord. 7369. Passed 9-8-81; Ord. 11285. Passed 7-1-97.)

507.09 CONFINEMENT OF FEMALE DOGS.

Every person owning or harboring a female dog, whether licensed or unlicensed, shall keep such dog confined in a building or secure enclosure for twenty-five days during the period of estrus. (Ord. 7369. Passed 9-8-81.)

507.10 OBSTRUCTING CITY MANAGER OR AUTHORIZED REPRESENTATIVE.

No person shall interfere with, hinder, molest, obstruct or abuse the City Manager or his authorized representative in the exercise of his duties as specified by State law or this article. (Ord. 11285. Passed 7-1-97.)

507.11 VOLUNTARY STERILIZATION OF ADOPTED ANIMALS; CREDIT.

(EDITOR'S NOTE: Former Section 507.11 was repealed by Ordinance 11285, passed July 1, 1997.)

507.12 CRUELTY TO DOGS AND CATS.

507.12 (A) 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 maltreating any other dog or cat.

(WVaC 61-8-19a)

Shelter must protect the dog or cat from the elements of weather provided that, for purposes of this subsection, any animal kept outside shall be provided with structurally sound weatherproof enclosure, large enough to accommodate the animal with adequate room for movement and insulated so as to protect the animal from extreme heat or cold temperatures.

507.12 (B) Tethering of dogs or cats.

- (a) It is unlawful to attach chains or other tethers, restraints or implements directly to a dog or cat without the proper use of a collar, harness, or other device designed for the purpose and designed to prevent injury to the animal.
- (b) No person shall;
 - (1) Except as provided in subsection (2), tether a dog or cat for more than two continuous hours; provided that tethering of the same dog or cat may resume after a hiatus of three continuous hours; and provided further that the tethering of the same dog or cat shall not be tethered more than three times in a 24-hour period; or

- (2) When the outside temperature is equal to or greater than 90 degrees Fahrenheit or equal or less than 20 degrees Fahrenheit, tether a dog or cat for more than one continuous hour; provided that tethering of the same dog or cat may resume after a hiatus of three continuous hours; and provided further that the tethering of the same dog or cat is allowed no more than two times in a 24 hour period; or
 - (3) Use a tethering device, including, but not limited to, chain, leash, rope, collaring device, or any assembly or attachments thereto, the weight of which inhibits the free movement of the animal within the area tethered; provided that for the purpose of the subsection, in no event shall the tethering device, including any assembly or attachments thereto, weight more than 1/8 of the animals body weight; or
 - (4) Tether a dog or cat in such manner as to cause injury, strangulation, or entanglement of the dog or cat on fences, trees, or other man-made or natural obstacles.
- (c) For the purpose of tethering a dog or a cat, the chain, leash, rope, or other tethering device used shall be at least ten feet in length, unless this length allows the dog or cat to be on property other than the owner's property, or results in a violation of subsection (b) (4).
- (d) Violation of this section shall be a separate and distinct offense from the cruelty to animals' provisions of § 505.01. Further, violations of this section shall be subject to the enforcement, adjudication and penalty provisions of § 507.99.

507.13 UNLAWFUL NOISE BY DOGS AND/OR CATS.

No person shall permit or cause to be made or continued to be made any excessive, unnecessary or unusually loud noise upon the premises owned, occupied or controlled by such person, by any dog or cat otherwise permitted to be kept which, by any sound, cry or behavioral noise, causes annoyance or discomfort to a reasonable person of normal sensitivity. For purposes of this section the officer may consider the time, place, manner and duration of the noise when issuing a citation. See also Section 507.08 and 509.05 (3).

507.14 FEEDING OF FERAL, STRAY AND/OR UNDOMESTICATED CATS/FELINES

Intentionally providing food or sustenance for feral or stray cats is prohibited. It shall be unlawful for any person to place any type of food upon any property for the purpose of feeding stray and/or undomesticated felines. Any person found to be in violation of this section shall be subject to the penalties in §507.99 of this Article which provides for enhanced penalties for repeat violations.

507.99 PENALTY.

- (a) Any police officer may issue a citation to the owner, keeper or harbinger of a dog or cat for any violation of this article. The penalty for the first such violation shall not be less than three hundred dollars (\$300.00); the penalty for a second violation shall not be less than five hundred

dollars (\$500.00); and the penalty for a third or subsequent violation not be less than one thousand dollars (\$1,000.00). The penalty for violations of section 507.12 is not less than one thousand dollars (\$1,000.00). See also the Penalty Provisions of 505.99 as applicable.

Whoever fails to pay such penalty or penalties to the Director of Finance within seven days of receipt of such citation shall be subject to the enforcement and penalty provisions of Article 501.

In the alternative, if such owner, keeper or harbinger of an animal charged as provided herein, desires to contest such citation, that person must contact the Clerk of the Police Court within seven days of receipt of such citation and the Clerk shall then set the matter to be heard at the next regular session of the ~~Police~~ Municipal Court. At the time such request is made to the Clerk, the person requesting to be heard shall post adequate surety to assure appearance in Court at the designated session.

Furthermore any dog found to be running at large in violation of Section 507.05 and such dog commits any type of attack, bite, endangerment or infliction of injury of a human being or upon a domestic animal as such attacks are further defined in Article 508 - Dangerous and Vicious Dogs, shall be subject to a fine of not less than five hundred dollars (\$500.00). Any dog cited under this Article may also be cited under Article 508 as they are separate offenses.

This provision shall not interfere with the rights of any law enforcement officer to arrest on view for crimes or misdemeanors now provided for by this article.

(Ord. 14146. Passed 6-21-11.)

(b) Whoever violates Section 507.12 shall be fined not more than one thousand dollars (\$1,000). In addition the County Dog Warden 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. The cost for housing the animal shall be assessed to the violator. (WVaC 61-8-19a; Ord. 11285. Passed 7-1-97.)

(c) For purposes of Enforcement, in addition to local law enforcement authorities, the Ohio County Animal Shelter and Dog Warden as well as it's duly authorized humane officers, in accordance with state law, may be called to assist local law enforcement particularly concerning complaints of Animal Cruelty. In doing so, the Police Department, with the cooperation of the Ohio County Animal Shelter/Dog Warden acting as witnesses/advisors to local law enforcement, may be called by the Police Department which shall thereafter administer and enforce the provisions of this Article should violations be found. As is the past practice of the Ohio County Animal Shelter/ Dog Warden, such entity may be contacted by local law enforcement to assist in the investigation of allegations or concerns of Animal Cruelty.