

ARTICLE 509
Disorderly Conduct and Peace Disturbance

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| <p>509.01 Disorderly conduct.</p> <p>509.02 Loitering on school property.</p> <p>509.03 Wearing masks, hoods or face coverings.</p> | <p>509.04 Disturbing the peace.</p> <p>509.05 Noise pollution.</p> <p>509.99 Penalty.</p> |
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CROSS REFERENCES

Authority to maintain order - see W. Va. Code 8-12-5 (19), (44)

Crimes against the peace - see W. Va. Code Art. 61-6

Intoxication or drinking in public places - see GEN. OFF. 521.06

Breach of peace with weapon - see GEN. OFF. 545.02

509.01 DISORDERLY CONDUCT.

(a) No person shall, in a public place, a mobile home park, a public parking area, a common area of an apartment building or dormitory, or a common area of a privately owned commercial shopping center, mall or other group of commercial retail establishments, disturb the peace of others by violent, profane, indecent or boisterous conduct or language or by the making of unreasonably loud noise that is intended to cause annoyance or alarm to another person, and who persists in such conduct after being requested to desist by a law-enforcement officer acting in his lawful capacity.

(b) For purposes of this section:

(1) "Mobile home park" means a privately-owned residential housing area or subdivision wherein the dwelling units are comprised mainly of mobile homes and wherein the occupants of such dwelling units share common elements for purposes of ingress and egress, parking, recreation and other like residential purposes.

(2) "Mobile home" means a moveable or portable unit, designed and constructed to be towed on its own chassis (comprised of frame and wheels), and designed to be connected to utilities for year-round occupancy. The term includes:

A. Units containing parts that may be folded, collapsed or telescoped when being towed and that may be expanded to provide additional cubic capacity, and

B. Units composed of two or more separately towable components designed to be joined into one integral unit capable of being separated again into the components for repeated towing.

(3) "Public parking area" means an area, whether publicly or privately owned or maintained, open to the use of the public for parking motor vehicles. (WVaC 61-6-1b)

509.02 LOITERING ON SCHOOL PROPERTY.

No person, not a student in regular attendance, shall loiter in or about any school, school building or school grounds in violation of any posted rules or regulations governing the use of any such school without written permission from the principal. (WVaC 61-6-14a)

509.03 WEARING MASKS, HOODS OR FACE COVERINGS.

(a) Except as otherwise provided in this section, no person, whether in a motor vehicle or otherwise, while wearing any mask, hood or device whereby any portion of the face is so covered as to conceal the identity of the wearer, shall:

- (1) Come into or appear upon any walk, alley, street, road, highway or other thoroughfare dedicated to public use;
- (2) Come into or appear in any trading area, concourse, waiting room, lobby or foyer open to, used by or frequented by the general public;
- (3) Come into or appear upon or within any of the grounds or buildings owned, leased, maintained or operated by the State or Municipality;
- (4) Ask, request, or demand entrance or admission to the premises, enclosure, dwelling or place of business of any other person within this Municipality; or
- (5) Attend or participate in any meeting upon private property of another unless written permission for such meeting has first been obtained from the owner or occupant thereof.

(b) The provisions of this section do not apply to any person:

- (1) Under sixteen years of age;
 - (2) Wearing a traditional holiday costume;
 - (3) Engaged in a trade or employment where a mask, hood or device is worn for the purpose of ensuring the physical safety of the wearer;
 - (4) Using a mask, hood or device in theatrical productions, including use in mardi gras celebrations or similar masquerade balls;
 - (5) Wearing a mask, hood or device prescribed for civil defense drills, exercises or emergencies; or
 - (6) Wearing a mask, hood or device for the sole purpose of protection from the elements or while participating in a winter sport.
- (WVaC 61-6-22)

509.04 DISTURBING THE PEACE.

No person shall:

- (a) On any street, highway, public building, in or on a public or private conveyance, or public place, engage in conduct having a direct tendency to cause acts of violence by the person or persons at whom, individually, such conduct is directed.
- (b) Willfully, or being intoxicated, whether willfully or not, disrupt any meeting of the governing body of any political subdivision of this State or a division or agency thereof, or of any school, literary society or place of religious worship, or any other meeting open to the public, if such disruption prevents or interferes with the orderly conduct of such meeting or has a direct tendency to cause acts of violence by the person or persons at whom, individually, such disruption is directed.

- (c) Engage in fighting, or threaten to harm persons or property unlawfully.
- (d) Make offensively coarse utterance, gesture or display, or communicate unwarranted and grossly abusive language to any person, which by its very utterance or usage inflicts injury or tends to incite an immediate breach of the peace.
- (e) Insult, taunt or challenge another under circumstances in which such conduct is likely to provoke a violent response.
- (f) Hinder or prevent the movement of persons or vehicles on a public street, road, highway right of way or to, from, within or upon public or private property, so as to interfere with the rights of others, by any act which serves no lawful and reasonable purpose.
- (g) Create a condition which presents a risk of physical harm to persons or property.
- (h) Urinate or defecate in any public place or upon the property of any other person, except this section shall not apply to the use of restrooms and/or bathrooms.

Nothing described herein shall be interpreted or construed to prevent any constitutionally protected activity including but not necessarily limited to exercise of one's constitutionally guaranteed rights of freedom of speech or assembly. No person may be convicted under this section when his sole intent for engaging in the activities for which he was arrested was to exercise one or more of the rights guaranteed to him under the Constitution of the United States or the State Constitution or to exercise any other rights guaranteed to that person by law.

509.05 NOISE POLLUTION.

(a) It shall be unlawful for any person within the Town to use or operate any radio receiving set, musical instrument, phonograph, television set, or other machine or device for the production or reproduction of sound in such a manner as to disturb the peace, quiet and comfort of neighboring residents or any reasonable person of normal sensitiveness residing in the area. The operation of any such set, instrument, television, phonograph, machine or device at any time in such a manner as to be plainly audible at either the property line or 25 feet from a vehicle on public rights of way shall be prima-facie evidence of a violation of this section.

(b) This section shall not apply to any person who is participating in a school band or in a parade for which the Town has given permission.

(c) It shall be unlawful for any person, other than personnel of law enforcement, fire department or governmental agencies to install, use or operate within the Town a loudspeaker or sound-amplifying equipment for the purposes of giving instructions, directions, talks, addresses, lectures, or transmitting music to any persons or assemblages of persons in or upon any street, alley, sidewalk, park, place of public property, without first filing a registration statement and obtaining approval thereof as set forth in a form to be determined by the Mayor. (1969 Code 9-104.)

509.99 PENALTY.

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

- (a) Whoever violates Section 509.01 shall be fined not more than one hundred dollars (\$100.00). (WVaC 61-6-16)
- (b) Whoever violates Section 509.02 shall be fined not more than one hundred dollars (\$100.00), for a first offense. For a second or subsequent offense such person shall be fined not more than five hundred dollars (\$500.00). (WVaC 61-6-14a)