

AN ORDINANCE TO AMEND AND REENACT THE CODIFIED ORDINANCES OF THE CITY OF MARTINSBURG TO AMEND PART FIVEó GENERAL OFFENSES CODE, CHAPTER FIVE- ANIMALS AND FOWL, ARTICLE 505.05: HUNTING PROHIBITED, BY ADDING SECTIONS 505.051-505.054 AND AMENDING SECTION 505.99: PENALTY

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF MARTINSBURG, THAT THE CITY OF MARTINSBURG CODIFIED ORDINANCES SHALL BE AMENDED AS FOLLOWS:

505.05: URBAN DEER MANAGEMENT; HUNTING OTHERWISE 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, except under the following conditions:

505.051 Definitions

(a) "Urban Deer Hunt" means the hunting of deer by bow and arrow or crossbow within the City limits of the City of Martinsburg, as authorized by this Article, and as amended, during an year when there is a bow hunting season established by the West Virginia Department of Natural Resources

(b) "Urban Hunting Tract" means a tract of property of at least five (5) contiguous acres upon which it shall be lawful to hunt deer as designated and approved by the Chief of Police.

(c) "City Permit" means an annual permit issued by the Chief of Police authorizing participation as a hunter in the Urban Deer Hunt for a designated year.

505.052: Hunting Permitted under the Following Conditions:

(b) Urban Deer Hunting shall be lawful in the City of Martinsburg only under the following conditions:

(1) Hunting shall be by permit only under the terms of this chapter.

(2) The hunt shall be for deer only.

(3) Subject to limited exceptions described herein, only bows and arrows or crossbows may be used, in accordance with WV Code, all requirements of this article and any amendment.

(4) Hunting may occur only on property with the written permission of the property owner and which has been designated as available for hunting by the City Manager or designee. The City of Martinsburg may, from time to time, designate large tracts of City owned and controlled property, not under the management of the Martinsburg-Berkeley County Parks and Recreation Board, as available for urban deer management. In this instance, permitted hunters will be selected by lottery. The City Manager will make information available regarding City owned property from year to year.

(5) All deer harvested must be legally checked in at an official game station and reported to the City of Martinsburg Police Department, via post card

(6) No hunting shall take place within 150 feet of a dwelling or other occupied building.

(7) No hunting shall take place within 500 feet from the property boundary a parcel containing a school building. For purposes of this section, "school" means a public or private school, during periods when students are in attendance or participating in school activities.

(8) All hunting shall be conducted from an elevated portable tree stand, the bottom of which shall be no less than ten (10) feet from the ground, and facing the interior of the property. All stands and shooting lanes shall be located in such a way to direct arrows and bolts into the interior of the property.

(9) Hunting shall take place only on tracts of land containing five (5) continuous acres and within a sufficient distance from the boundary that an arrow cannot reasonably travel outside of the permitted tract. No more than three (3) property owners may combine parcels to create one five (5) acre contiguous area, provided that one property owner is designated to be the contact and signatory for the entire tract. Once a property has been designated, it shall remain a designated tract for the entire season. Each tract must be permitted by a designated member of

the Martinsburg Police Department. Properties within an incorporated homeowners' association must gain additional approvals from the WVDNR in accordance with Legislative Rule Title 58 Series 45 Section 3.3.b.1.

(10) Any owner of a property approved for urban deer management has the right to designate, with a permit, or limit any persons allowed to hunt on that tract.

(11) All permitted hunters shall make every reasonable effort to track a wounded deer for the purpose of completing the harvest and recovering the carcass. In the event the deer is not recovered or leaves the permitted hunting tract, the hunter shall immediately notify the Martinsburg Police Department and provide sufficient information to enable the City to find and retrieve the deer.

(12) The season for urban deer hunting in the City of Martinsburg shall coincide with the time periods approved for archery hunting by the West Virginia Department of Natural Resources (WVDNR) for special urban deer archery seasons and all restrictions promulgated by the WVDNR from year to year will be in effect as if contained in this Code Section

(13) Persons shall, at all times when hunting pursuant to a City permit, carry a valid photo identification, a copy of the City issued permit and a valid WV State hunting license, if required, and any other applicable state permit or document.

(14) The deer carcass must be removed in its entirety, or if field-dressed where harvested, all entrails and offal shall be placed in a plastic bag, removed with the carcass and properly disposed of.

(15) All rules and regulations promulgated by the State of West Virginia regarding hunting shall apply within the limits of the City of Martinsburg

505.053 Permits; Hunters

(A) In order to obtain a permit, the applicant must meet and have evidence of compliance with all applicable State statutes, regulations and rules applicable to deer hunting with a bow and arrow or a crossbow. The City may impose additional requirements and may limit the number of permits issued. All applicants must submit an Application for City Deer

Management Permit by the posted deadline of each year, and provide copies of photo identification, WV Hunting license with appropriate stamps and permits for bow hunting, unless exempted by the State of WV from a license requirement, and written permission from the property owner, on a form designated by the City of Martinsburg, who has or will make application for designation of the property as an Urban Hunting Tract.

(B) City Permits will only be issued under the following conditions:

(1) Only those persons who are eighteen (18) years of age, or older, at time of application will be issued a permit.

(2) Each City Permit shall be site specific to an Urban Hunting Tract, and will only be valid within the boundaries of said tract.

(3) City permits are non-transferrable and shall only authorize the named permittee to participate in an Urban Deer Hunt, and only during the season(s) specified.

(4) Permittees are permitted to harvest no more than seven (7) deer, which shall not be counted in the regular archery season bag limit as set by the WVDNR; provided that only two (2) of the allowable limit may be antlered and permittees are required to harvest at least one (1) antlerless deer prior to harvesting an antlered deer. No more than two (2) deer may be harvested in any one day. Any violation of these requirements shall result in permanent forfeiture of the City Permit and shall constitute a violation of both State and Local statute.

(5) it is the responsibility of the permittee to report and certify the time, date, place and sex of any deer harvested in the Urban Deer Hunt to the Chief of Police, or designee, within seventy-two (72) hours of the harvest, by completing and mailing a Harvest Report containing above information to the City of Martinsburg. In addition, permittee is to register deer with the WVDNR in accordance with State laws, rules and regulations.

(6) The Chief of Police is hereby authorized to promulgate reasonable rule and regulations not contained herein, on a year to year basis.

505.054 Approved Tracts

(1) Any person owning a tract or tracts of five (5) or more contiguous acres and desiring to have their property designated as an Urban Hunting Tract for an Urban Deer Hunt shall make application with the Chief of Police.

(2) All applications for designation of an Urban Hunting Tract shall be on a form supplied by the Chief of Police and be supported by the following documentation:

(a) A plat, map or other instrument identifying, with sufficient particularity, the boundary of the property. For the purposes of this section, Berkeley County Tax Map information is sufficient evidence of boundary and owner information.

(b) Document sufficient to verify all ownership interests in the property, and the authority of the party submitting an application for designation of a property as an Urban Hunting Tract, if applicant is not the sole owner of the property.

(c) Upon designation, the location of the Urban Hunting Tract will be posted on the City's website at www.cityofmartinsburg.org and/or the Martinsburg Police Department website at www.martinsburgpd.org.

(d) No one shall be permitted to hunt on a designated Urban Hunting Tract without a City Permit, which shall be tract specific. No City Permits will be granted without written authorization of the property owner, or authorized designee, of a Designated Urban Hunting Tract.

(e) Notice is hereby given that the City of Martinsburg makes no warranties and assumes no liability for the actions of persons permitted to participate in an Urban Deer Hunt and/or is permitted to hunt on any Urban Hunting Tract. Nothing herein shall prevent the voluntary or contractual shifting of any risk of loss between property owners and permitted hunters.

(f) Notwithstanding any other provision contained herein, the Chief or Police shall retain absolute discretion, subject to the enabling ordinance, to issue, deny or revoke an Urban Hunting

