

## 508.02 DEFINITIONS.

When used in this article, the following words, terms, and phrases, and their derivations shall have the meaning ascribed to them in this section, except where the context clearly indicates a different meaning:

(a) "Animal Control Officer" means the Ohio County Animal Control Officer, Game Wardens, and also may apply to City Law Enforcement Personnel or any person authorized to enforce the laws of the City of Wheeling and State of West Virginia or to investigate and enforce violations relating to animal control or cruelty.

(b) "At large" means that a dog is not under the direct control of the owner, or anywhere off the premises of the owner.

(c) "American Bulldog". Any American Bulldog or old country bulldog, or any mixed breed of dog which contains, as an element of its breeding, the breed of American Bulldog or old country bulldog as to be identifiable as partially of the breed of American Bulldog or old country bulldog. If there is a question of whether a particular canine fits the definition herein; it will be sufficient to show identification of a canine as either a pure bred or belonging to a mixed breed if a member of the American Veterinary Medical Association (AVMA) would identify the canine as such.

(d) "Canary Dog." Any canary dog or Perro do Presa Canario, or any mixed breed of dog which contains, as an element of its breeding, the breed of canary dog or Perro do Presa Canario as to be identifiable as partially of the breed canary dog or Perro de Presa Canario. If there is a question of whether a particular canine fits the definition herein; it will be sufficient to show identification of a canine as either a pure bred or belonging to a mixed breed if a member of the American Veterinary Medical Association (AVMA) would identify the canine as such.

(e) "Dangerous Dog." A dog that, without provocation and subject to Section [508.03\(b\)](#), has chased or approached in either a menacing fashion or an apparent attitude of attack, or has attempted to bite or otherwise endanger any person, while that dog is off the premises of its owner, keeper, or harbinger and not under the reasonable control of its owner, keeper, harbinger, or some other responsible person, or not physically restrained or confined in a locked pen which has a top, locked fenced yard or other locked enclosure which has a top. "Dangerous Dog" means any dog that, because of its aggressive nature, training or characteristic behavior, presents a risk of serious physical harm or death to human beings or domestic animals, or would constitute a danger to human life, physical well-being, or property or other domestic animals if not kept under the direct control of the owner. This definition shall not apply to dogs utilized by law enforcement officers in the performance of their duties and does not include a police dog that has chased or approached in either a menacing fashion or an apparent attitude of attack, or has attempted to bite or otherwise endanger, any person while the police dog is being used to assist one or more law enforcement officers in the performance of their official duties. "Dangerous Dog" includes but is not restricted by or limited to any dog that according to the records of either any City, any County, any State, or any law enforcement agency:

(1) Has, when provoked, bitten, attacked, endangered, or inflicted injury on a human being on public or private property, or when unprovoked, has chased or approached a person upon the street, sidewalks, or any public grounds in a menacing fashion or apparent attitude of attack, provided that such actions are attested to in a sworn statement by one or more persons and dutifully investigated by any of the above

referenced authorities; or

(2) Has severely injured or killed a domestic animal while off the owner's property;

or

(3) Has been used primarily or in part for the purpose of dog fighting, or is a dog trained for dog fighting; or

(4) Has previously been declared a dangerous dog by another municipality, any county or any state.

(f) "Direct Control" means immediate, continuous physical control of a dog such as by means of a leash, cord, secure fence, or chain of such strength to restrain the dog and controlled by a person capable of restraining the dog, or safe and secure restraint within a vehicle. If the controlling person is at all times fully and clearly within unobstructed sight and hearing of the dog, voice control shall be considered direct control when the dog is actually participating in training or in an official showing, obedience, or field event. Direct control shall not be required of dogs actually participating in a legal sport in an authorized area or to government police dogs.

(g) "Menacing Fashion." A dog that would cause any person being chased or approached to reasonably believe that the dog will cause physical injury to that person.

(h) "Muzzle." A leather, wire or device that, when fitted over an animal's snout, prevents biting and eating.

(i) "Owner." Any person owning, keeping, possessing, harboring, maintaining, or having the care, custody or control of an animal.

(j) "Pit Bull Terrier." Any Staffordshire bull terrier, American pit bull terrier, or American Staffordshire terrier breed or dog, or any mixed breed of dog which contains, as an element of its breeding, the breed of Staffordshire bull terrier, American pit bull terrier, or American Staffordshire Terrier, as to be identifiable as partially of the breed of Staffordshire bull terrier or American Staffordshire terrier. If there is a question of whether a particular canine fits the definition herein; it will be sufficient to show identification of a canine as either a pure bred or belonging to a mixed breed if a member of the American Veterinary Medical Association (AVMA) would identify the canine as such.

(k) "Police Dog." A dog that has been trained, and may be used, to assist one or more law enforcement officers in the performance of their duties.

(l) "Serious Injury." Any injury inflicted upon a human being such biting to cause tearing of the skin, or such physical injury which is sustained or results because of the behavior of such dog. The type of injury contemplated under this definition is one that would require treatment by a medical professional.

(m) "Unsecured." Not securely confined indoors, or not securely restrained by means of a collar and chain, pen, fence, or similar physical device, and in such a manner which effectively prevents the dog from going beyond the premises of the owner.

(n) "Under restraint" means that an animal is secured by a leash, led under the control of a person physically capable of restraining the animal and obedient to that person's commands, or securely enclosed within the real property limits of the owner's premises.

(o) "Vicious Dog." Any dog that, without provocation, meets any of the following requirements:

(1) Has killed or caused serious injury to any person;

(2) Has caused injury, other than killing or serious injury, to any person or has killed another dog;

(3) While off the premises of the owner, bites or causes physical harm to a human

being, domestic animal, or feline;

(4) While on the premises of the owner or premises under control of the owner, bites or otherwise causes physical harm to mail carriers, utility workers, City of Wheeling employees, delivery persons, or any police or emergency person; or

(5) Belongs to the breed that is commonly known as a pit bull terrier, canary dog, and American bull dog as defined above. The ownership, keeping or harboring of such a breed of dog shall be prima-facie evidence of the ownership, keeping or harboring of a vicious dog.

“Vicious Dog” does not include either of the following:

(1) A police dog that has killed or caused serious injury to any person or that has caused injury, other than killing or serious injury, to any person while the police dog is being used to assist one or more law enforcement officers in the performance of their official duties; or

(2) A dog that has killed or caused serious injury to any person while a person was committing or attempting to commit a trespass or other criminal offense on the property of the owner, keeper, or harborer of that dog.

(Ord. 13176. Passed 1-17-06.)

### **508.07 KEEPING OF DANGEROUS AND VICIOUS DOGS.**

No owner, keeper, or harbinger of a dangerous or vicious dog shall fail to comply with the following requirements:

(a) Leash. No person having charge, custody, control or possession of a dangerous or vicious dog shall allow the dog to exit its kennel, pen or other proper enclosure unless such dog is securely attached to a leash no more than six (6) feet in length. No such person shall permit a dangerous dog to be kept on a chain, rope or other type of leash outside its kennel or pen unless a person capable of controlling the dog is in physical control of the leash. The leash or tether must be controlled by a person who is of suitable age and discretion or securely attached, tie or affix the leash or tether to the ground or a stationary object or fixture so that the dog is adequately restrained and station such a person in close enough proximity to that dog so as to prevent it from causing injury to any person.

(b) Muzzle. It shall be unlawful for any owner or keeper of a dangerous or vicious dog to allow the dog to be outside of its proper enclosure, unless the dog wears a properly fitted muzzle to prevent it from biting humans or other animals. Such muzzle shall not interfere with the dog's breathing or vision. A muzzle is mandatory, however, it is unlawful for any person to own, keep or harbor any dog known by him to be vicious and/or dangerous, or in the habit of biting or attacking other persons whether or not such dog wears a muzzle or a tag.

(c) Confinement. Except when leashed and muzzled as provided in this section, a dangerous or vicious dog shall be securely confined indoors or confined in a locked pen or other secure enclosure that is suitable to prevent the entry of children and is designed to prevent the dog from escaping. The enclosure shall include shelter and protection from the elements and shall provide adequate exercise room, light and ventilation. The enclosed structure shall be kept in a clean and sanitary condition and shall meet the following requirements:

(1) The structure must have secure sides and a secure top, or all sides must be at least six (6) feet high;

(2) The structure must have a bottom permanently attached to the sides or the sides must be imbedded not less than one (1) foot into the ground;

(3) The structure must be of such material and closed in such a manner that the dog cannot exit the enclosure on its own.

(d) Indoor Confinement. No dangerous or vicious dog shall be kept on a porch, patio, or in any part of a house or structure that would allow the dog to exit such building on its own volition. In addition, no such dog shall be kept in a house or structure when the windows or screen doors are the only obstacle preventing the dog from exiting the structure.

(e) Signs. All owners, keepers, or harborers of dangerous or vicious dogs shall display in a prominent places on their premises signs easily readable by the public using the words "Beware of Dog." They are to be placed primarily at points of egress and ingress.

(f) Liability Insurance, Surety Bond. The owner of a dangerous and/or vicious dog shall present to the City Manager proof that he has procured liability insurance with an insurer authorized to write liability insurance in this State providing coverage in each occurrence, subject to a limit, exclusive of interest and costs, of not less than one hundred thousand dollars (\$100,000) because of damage or bodily injury to or death of a

person caused by the vicious dog, covering as well any damage or injury whatsoever that may be caused by the dangerous or vicious dog. The policy shall contain a provision requiring that the City be notified immediately by the agent issuing the policy in the event that the insurance policy is canceled, terminated or expires. The liability insurance or surety bond shall be obtained prior to the issuing of a permit to keep a dangerous or vicious dog and a copy of the certificate must be given to the license office and kept on file. The dog owner shall sign a statement attesting that he shall maintain and not voluntarily cancel the liability insurance policy during the twelve (12) month period for which a permit is sought, unless he ceases to own or keep the dog prior to the expiration date of the permit period. The owner shall provide the City Manager with notice of any cancellation on the liability insurance policy. In the event that the owner proves to the satisfaction of the City Manager that insurance is not available at any cost, the owner may post with the City Manager a surety bond, of an equivalent amount, payable to any person injured by the dangerous or vicious dog. The decision as to whether a surety bond will be accepted is within the sole discretion of the City Manager.

(g) Mandatory Spaying or Neutering. Within 30 days of the City Manager's determination that a particular dog is dangerous or vicious, the owner of said dog shall have it spayed or neutered and provide the City Manager with a written statement from the veterinarian, who performed the operation, verifying the same.

(h) Notification of Escape. The owner or keeper of a dangerous or vicious dog shall notify the County Animal Control Officer, the City of Wheeling Police Department and the City Manager immediately if such dog escapes from its enclosure or restraint and is at large. Such immediate notification shall also be required if the dog bites or attacks a person or domestic animal.

(i) Failure to Comply. It shall be unlawful and a misdemeanor for any owner of a dangerous or vicious dog registered with the City Manager to fail to comply with the requirements and conditions set forth in this Section. An owner or keeper of a dangerous or vicious dog who fails to register the dog shall be guilty of a misdemeanor and fined Five Hundred Dollars (\$500.00). Each day that the dangerous or vicious dog is not registered shall be a separate offense. The fine for any other violation of this section, for which a specific fine amount has not been set forth, shall be Two Hundred Fifty Dollars (\$250.00) with each day that the offense continues being a separate citable offense. Any dog found to be in violation of this Section [508.07](#) shall be subject to immediate seizure and impoundment. In addition, failure to comply with the requirements and conditions set forth in Section [508.07](#) may result in the City Manager revoking the permit providing for the keeping of such animal. Other ordinances pertaining to penalties for injuries inflicted by dogs shall be in addition to the penalties set forth herein.

(j) All owners of dangerous or vicious dogs at the date of adoption of this ordinance shall be given 60 days after such adoption to comply with the regulations contained within this ordinance.

(k) Request for Exemption. Any owner, keeper or harbinger of a dangerous or vicious dog may make application to the City Manager to receive exemption from certain provisions of this section if the canine has actual certification for such purposes as therapeutic use, or if an owner is a certified breeder, etc. The decision to grant an exemption is at the sole discretion of the City Manager and exemption from one area of this section does not exempt such person from complying with all other provisions of this section, such as insurance, leashing, etc. or all other sections of this article.

(l) Non-residents - Any owner, keeper or harbinger of a dangerous or vicious dog who

does not reside within the city limits must still, when brought into the City, obey the above requirements as applicable; however, such non-residents are exempt from section (f) Liability Insurance, Surety Bond and (g) Mandatory Spaying or Neutering.  
(Ord. 13176. Passed 1-17-06.)