

CHAPTER 618
Animals

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CROSS REFERENCES

See section histories for similar State law

Power to restrain and impound animals - see Ohio R.C. 715.23

Driving animals upon roadway - see TRAF. 404.05, 412.05

Definitions generally - see GEN. OFF. 606.01

Assaulting police dog or horse or assistance dog - see GEN. OFF. 642.08

Offensive odors from places where animals are kept or fed - see GEN. OFF. 660.04

618.01 DOGS AND OTHER ANIMALS RUNNING AT LARGE.

(a) No person who is the owner or keeper of horses, mules, cattle, sheep, goats, swine, dogs, geese or other fowl or animals shall permit them to run at large upon any public way or upon unenclosed land.

(b) No person who is the owner of or in charge or control of a cat shall permit or allow, by any means or in any manner, such cat to go or remain upon any public street or ground within the City, except when under such control as to prevent such cat from entering private property or from chasing or attacking any person or domestic animal.

(c) Except when a dog is lawfully engaged in hunting and accompanied by the owner, keeper, or harbinger of the dog, no owner, keeper, or harbinger of any dog shall fail at any time to do either of the following:

(1) Keep the dog physically confined or restrained upon the premises of the owner, keeper, or harbinger by a leash, tether, adequate locked fence, which fence is located in the rear yard with self-closing/self-latching gates on any openings of the fenced yard, supervision of some person, or secure enclosure to prevent such dog from escaping or from injuring any person or domestic animal;

(2) Keep the dog under the reasonable control of some person and restrained by a leash or tether no longer than six feet in length when off the premises of the owner to prevent such dog from entering private property, escaping, or from injuring any person or animal.

(d) 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.

(e) A cat found running at large shall be impounded by the Municipal Animal Warden or any police officer, kept in an animal shelter and confined in a humane manner. Immediately upon impounding, every reasonable effort shall be made to ascertain and notify the owner of the conditions whereby custody of the cat may be regained. A cat not claimed by its owner within five full days after impounding shall become the property of the City, regardless of whether or not the owner is ascertained and notified as provided in this subsection.

(f) The owner of a cat so impounded may reclaim such animal upon presentation of proof of ownership, upon execution of a form wherein the Municipality is released from any liability for any damage or injury to the cat being reclaimed, and wherein the Municipality is indemnified for any claim by another person regarding ownership, damages or injury to the cat being reclaimed, upon execution of a statement under oath or affirmation stating that the affiant is the true and legal owner of such cat and upon payment of an impounding fee and boarding charge as set forth in Chapter 208 of the Administration Code, the General Fee Schedule.

(g) References to "aggressively bite" in Sections 618.01 through 618.26 shall mean any bite, not committed in play, that causes a physical injury, including a bruise, puncture, tearing of the skin, or laceration.

(h) References to "unprovoked" or "without provocation" in this section and Sections 618.21 through 618.22 shall mean that the dog was not:

(1) Being abused, teased, tormented, or physically threatened or injured by a person;

(2) Being abused or physically threatened or injured by an animal;

(3) Being aggressively teased or tormented by an animal;

(4) Directing its behavior at a trespasser on the property of its owner, keeper, or harbinger;

(5) Reasonably coming to the defense of a human or domestic animal within the immediate vicinity of the dog and under perceived threat; or

(6) Directing its behavior at a domestic animal that was running at large and unattended by some person.

(i) References to "classified dog" in this section shall mean a dog that has been previously classified as a potential nuisance dog, nuisance dog, dangerous dog, or vicious dog pursuant to this Code, or similar designation in another jurisdiction, under the provisions of Ohio R.C. 955.11 et seq. or comparable local ordinance.

(j) Penalties.

(1) Whoever violates this section, where the animal at large is not a classified dog, is guilty of a minor misdemeanor on the first offense, a misdemeanor of the fourth degree on the second offense, and a misdemeanor of the second degree on the third or any subsequent offense. Whoever violates this section shall be fined not less than twenty-five dollars (\$25.00) or more than one hundred dollars (\$100.00) on a first offense, and on each subsequent offense shall be fined not less than seventy-five dollars (\$75.00) or more than two hundred fifty dollars (\$250.00) and may be imprisoned for not more than 30 days.

(2) Notwithstanding division (j)(1) of this section, where the animal at large is not a classified dog and the animal aggressively bites a domestic animal without provocation as a result of a violation of this section, then whoever violates this section is guilty of a misdemeanor of the third degree. Additionally, where a violation of this section involves a dog, the court may order the offender to complete dog obedience training within a specified period of time and provide written proof thereof to the Police Chief.

(3) Notwithstanding division of this section, where the animal at large is not a classified dog and the animal aggressively bites a human without provocation as a result of a violation of this section, then whoever violates this section is guilty of a misdemeanor of the second degree. Additionally, where a violation of this section involves a dog, the court may order the offender to complete dog obedience training within a specified period of time and provide written proof thereof to the Police Chief.

(4) Notwithstanding division (j)(1) of this section, where the animal at large is not a classified dog and the animal aggressively bites a human or domestic animal without provocation and causes serious injury as defined by Ohio R.C. 955.11(A)(5), as a result of a violation of this section, then whoever violates this section is guilty of a misdemeanor of the first degree. Additionally, where a violation of this section involves a dog, the court may order the offender to complete dog obedience training within a specified period of time and provide written proof thereof to the Police Chief.

(Ord. 132-2015. Passed 10-13-15.)

618.02 ABANDONING ANIMALS.

(a) No owner or keeper of a dog, cat, or other domestic animal shall abandon the animal.

(ORC 959.01)

(b) Whoever violates division (a) of this section is guilty of a misdemeanor of the second degree on a first offense and a misdemeanor of the first degree on each subsequent offense.

(ORC 959.99(E)(2))

618.03 KILLING OR INJURING ANIMALS.

(a) No person shall maliciously, or willfully and without the consent of the owner, kill or injure a dog, cat, or any other domestic animal that is the property of another. This section does not apply to a licensed veterinarian acting in an official capacity.

(ORC 959.02)

(b) Except as otherwise provided in this division, whoever violates division (a) of this section is guilty of a misdemeanor of the second degree. If the value of the animal killed or the injury done amounts to three hundred dollars (\$300.00) or more, whoever violates division (a) of this section is guilty of a misdemeanor of the first degree.

(ORC 959.99(B))

618.04 POISONING ANIMALS.

(a) No person shall maliciously, or willfully and without the consent of the owner, administer poison, except a licensed veterinarian

acting in such capacity, to a dog, cat, or any other domestic animal that is the property of another; and no person shall, willfully and without the consent of the owner, place any poisoned food where it may be easily found and eaten by any such animal, either upon his or her own lands or the lands of another.

(ORC 959.03)

(b) Whoever violates division (a) of this section is guilty of a misdemeanor of the fourth degree.

(ORC 959.99(C))

618.05 CRUELTY TO ANIMALS; CRUELTY TO COMPANION ANIMALS.

(a) No person shall:

(1) Torture an animal, deprive one of necessary sustenance, unnecessarily or cruelly beat, needlessly mutilate or kill, or impound or confine an animal without supplying it during the confinement with a sufficient quantity of good wholesome food and water;

(2) Impound or confine an animal without affording it, during the confinement, access to shelter from wind, rain, snow, or excessive direct sunlight, if it can reasonably be expected that the animal would otherwise become sick or in some other way suffer. This division does not apply to animals impounded or confined prior to slaughter. For the purpose of this section, "shelter" means an artificial enclosure, windbreak, sunshade, or natural windbreak or sunshade that is developed from the earth's contour, tree development, or vegetation;

(3) Carry or convey an animal in a cruel or inhuman manner;

(4) Keep animals other than cattle, poultry or fowl, swine, sheep, or goats in an enclosure without wholesome exercise and change of air, nor feed cows on food that produces impure or unwholesome milk;

(5) Detain livestock in railroad cars or compartments longer than 28 hours after they are so placed without supplying them with necessary food, water, and attention, nor permit the stock to be so crowded as to overlie, crush, wound, or kill each other.

(b) Upon the written request of the owner or person in custody of any particular shipment of livestock, which written request shall be separate and apart from any printed bill of lading or other railroad form, the length of time in which the livestock may be detained in any cars or compartment without food, water, and attention may be extended to 36 hours without penalty therefor. Division (a) of this section does not prevent the dehorning of cattle.

(c) All fines collected for violations of division (a) of this section shall be paid to the society or association for the prevention of cruelty to animals, if there is one in the municipality; otherwise, all fines shall be paid to the general fund.

(ORC 959.13)

(d) Cruelty to Companion Animals.

(1) As used in this section:

A. "Boarding kennel." Has the same meaning as in R.C. § 956.01.

B. "Captive white-tailed deer." Has the same meaning as in R.C. § 1531.01.

C. "Companion animal" means any animal that is kept inside a residential dwelling and any dog or cat regardless of where it is kept, including a pet store as defined in R.C. § 956.01. "Companion animal" does not include livestock or any wild animal.

D. "Cruelty" has the same meaning as in Ohio R.C. 1717.01.

E. "Dog kennel." Means an animal rescue for dogs that is registered under R.C. § 956.06, a boarding kennel, or a training kennel.

F. "Federal Animal Welfare Act" means the "Laboratory Animal Act of 1966," Pub. L. No. 89-544, 80 Stat. 350 (1966), 7 U.S.C. 2131 et seq., as amended by the "Animal Welfare Act of 1970," Pub. L. No. 91-579, 84 Stat. 1560 (1970), the "Animal Welfare Act Amendments of 1976," Pub. L. No. 94-279, 90 Stat. 417 (1976), and the "Food Security Act of 1985," Pub. L. No. 99-198, 99 Stat. 1354 (1985), and as it may be subsequently amended.

G. "Livestock." Means horses, mules, and other equidae; cattle, sheep, goats, and other bovidae; swine and other suidae;

poultry; alpacas; llamas; captive white-tailed deer; and any other animal that is raised or maintained domestically for food or fiber.

H. "Practice of veterinary medicine" has the same meaning as in Ohio R.C. 4741.01.

I. "Residential dwelling" means a structure or shelter or the portion of a structure or shelter that is used by one or more humans for the purpose of a habitation.

J. "Serious physical harm." Means any of the following:

1. Physical harm that carries an unnecessary or unjustifiable substantial risk of death;
2. Physical harm that involves either partial or total permanent incapacity;
3. Physical harm that involves acute pain of a duration that results in substantial suffering or that involves any degree of prolonged or intractable pain;
4. Physical harm that results from a person who confines or who is the custodian or caretaker of a companion animal depriving the companion animal of good, wholesome food and water that proximately causes the death of the companion animal.

K. "Torment." Has the same meaning as in R.C. § 1717.01.

L. "Torture." Has the same meaning as in R.C. § 1717.01.

M. "Training kennel." Means an establishment operating for profit that keeps, houses, and maintains dogs for the purpose of training the dogs in return for a fee or other consideration.

N. "Wild animal" has the same meaning as in Ohio R.C. 1531.01.

(2) No person shall knowingly torture, torment, needlessly mutilate or maim, cruelly beat, poison, needlessly kill, or commit an act of cruelty against a companion animal.

(3) No person shall knowingly cause serious physical harm to a companion animal.

(4) No person who confines or who is the custodian or caretaker of a companion animal shall negligently do any of the following:

A. Torture, torment, or commit an act of cruelty against the companion animal;

B. Deprive the companion animal of necessary sustenance or confine the companion animal without supplying it during the confinement with sufficient quantities of good, wholesome food and water if it can reasonably be expected that the companion animal would become sick or suffer in any other way as a result of or due to the deprivation or confinement;

C. Impound or confine the companion animal without affording it, during the impoundment or confinement, with access to shelter from heat, cold, wind, rain, snow, or excessive direct sunlight if it can reasonably be expected that the companion animal would become sick or suffer in any other way as a result of or due to the lack of adequate shelter.

(5) No owner, manager, or employee of a dog kennel who confines or is the custodian or caretaker of a companion animal shall knowingly do any of the following:

A. Torture, torment, needlessly mutilate or maim, cruelly beat, poison, needlessly kill, or commit an act of cruelty against the companion animal;

B. Deprive the companion animal of necessary sustenance or confine the companion animal without supplying it during the confinement with sufficient quantities of good, wholesome food and water if it is reasonably expected that the companion animal would die or experience unnecessary or unjustifiable pain or suffering as a result of the deprivation or confinement;

C. Impound or confine the companion animal without affording it, during the impoundment or confinement, with access to shelter from heat, cold, wind, rain, snow, or excessive direct sunlight if it is reasonably expected that the companion animal would die or experience unnecessary or unjustifiable pain or suffering as a result of or due to the lack of adequate shelter.

(6) No owner, manager, or employee of a dog kennel who confines or is the custodian or caretaker of a companion animal shall negligently do any of the following:

A. Torture, torment, or commit an act of cruelty against the companion animal;

B. Deprive the companion animal of necessary sustenance or confine the companion animal without supplying it during the confinement with sufficient quantities of good, wholesome food and water if it can reasonably be expected that the companion animal

would become sick or suffer in any other way as a result of or due to the deprivation or confinement;

C. Impound or confine the companion animal without affording it, during the impoundment or confinement, with access to shelter from heat, cold, wind, rain, snow, or excessive direct sunlight if it can reasonably be expected that the companion animal would become sick or suffer in any other way as a result of or due to the lack of adequate shelter.

(7) Divisions (d)(2), (d)(3), (d)(4), (d)(5), and (d)(6) of this section do not apply to any of the following:

A. A companion animal used in scientific research conducted by an institution in accordance with the federal animal welfare act and related regulations;

B. The lawful practice of veterinary medicine by a person who has been issued a license, temporary permit, or registration certificate to do so under R.C. Chapter 4741;

C. Dogs being used or intended for use for hunting or field trial purposes, provided that the dogs are being treated in accordance with usual and commonly accepted practices for the care of hunting dogs;

D. The use of common training devices, if the companion animal is being treated in accordance with usual and commonly accepted practices for the training of animals;

E. The administering of medicine to a companion animal that was properly prescribed by a person who has been issued a license, temporary permit, or registration certificate under R.C. Chapter 4741.

(8) Notwithstanding any section of the Ohio Revised Code that otherwise provides for the distribution of fine moneys, the Clerk of Court shall forward all fines the Clerk collects that are so imposed for any violation of this division (d) to the Treasurer of the municipality, whose county humane society or law enforcement agency is to be paid the fine money as determined under this division. The Treasurer shall pay the fine moneys to the county humane society or the county, township, municipal corporation, or state law enforcement agency in this state that primarily was responsible for or involved in the investigation and prosecution of the violation. If a county humane society receives any fine moneys under this division, the county humane society shall use the fine moneys either to provide the training that is required for humane agents under section R.C. § 1717.06 or to provide additional training for humane agents.

(R.C. § 959.131)

(e) Whoever violates division (a) of this section is guilty of a misdemeanor of the second degree. In addition, the court may order the offender to forfeit the animal or livestock and may provide for its disposition including, but not limited to, the sale of the animal or livestock. If an animal or livestock is forfeited and sold pursuant to this division, the proceeds from the sale first shall be applied to pay the expenses incurred with regard to the care of the animal from the time it was taken from the custody of the former owner. The balance of the proceeds from the sale, if any, shall be paid to the former owner of the animal.

(ORC 959.99(D))

(f) (1) Whoever violates division (d)(2) of this section is guilty of a misdemeanor of the first degree on a first offense and a felony to be prosecuted under appropriate State law on each subsequent offense.

(2) Whoever violates division (d)(3) of this section is guilty of a felony to be prosecuted under appropriate state law.

(3) Whoever violates division (d)(4) of this section is guilty of a misdemeanor of the second degree on a first offense and a misdemeanor of the first degree on each subsequent offense.

(4) Whoever violates division (d)(5) of this section is guilty of a felony to be prosecuted under appropriate state law.

(5) Whoever violates division (d)(6) of this section is guilty of a misdemeanor of the first degree.

(6) A. A court may order a person who is convicted of or pleads guilty to a violation of division (d) of this section to forfeit to an impounding agency, as defined in Ohio R.C. 959.132, any or all of the companion animals in that person's ownership or care. The court also may prohibit or place limitations on the person's ability to own or care for any companion animals for a specified or indefinite period of time.

B. A court may order a person who is convicted of or pleads guilty to a violation of division (d) of this section to reimburse an impounding agency for the reasonably necessary costs incurred by the agency for the care of a companion animal that the agency impounded as a result of the investigation or prosecution of the violation, provided that the costs were not otherwise paid under Ohio R.C. 959.132.

(7) If a court has reason to believe that a person who is convicted of or pleads guilty to a violation of division (d) of this section suffers from a mental or emotional disorder that contributed to the violation, the court may impose as a community control sanction or as a condition of probation a requirement that the offender undergo psychological evaluation or counseling. The court shall order the offender to pay the costs of the evaluation or counseling.

(R.C. § 959.99(E))

Statutory reference:

Impoundment of companion animals; notice and hearing, see Ohio R.C. 959.132

618.06 COLORING RABBITS AND BABY POULTRY; SALE OR DISPLAY OF POULTRY.

(a) No person shall dye or otherwise color any rabbit or baby poultry, including, but not limited to, chicks and ducklings. No person shall sell, offer for sale, expose for sale, raffle or give away any rabbit or baby poultry which has been dyed or otherwise colored. No poultry younger than four weeks of age may be sold, given away or otherwise distributed to any person in lots of less than six. Stores, shops, vendors and others offering young poultry for sale or other distribution shall provide and operate brooders or other heating devices that may be necessary to maintain poultry in good health, and shall keep adequate food and water available to the poultry at all times.

(ORC 925.62)

(b) Whoever violates this section is guilty of a misdemeanor of the fourth degree on a first offense; each subsequent offense is a misdemeanor of the third degree.

(ORC 925.99(B))

618.07 BARKING, HOWLING OR DESTRUCTIVE DOGS.

(a) No person shall keep or harbor any dog which, by barking, howling or yelping, causes inconvenience, annoyance or alarm to another person. Any person who allows any such dog to habitually remain or be lodged or fed within any dwelling, building, yard or enclosure, which such person occupies or owns, shall be considered to be harboring such dog.

(Ord. 91-91. Passed 7-8-91.)

(b) No person shall keep or harbor any dog which by its conduct in any way or in any manner injures any other person, or which destroys or damages any other person's lawn, trees, shrubs, buildings or other property.

(Ord. 863. Passed 9-14-50.)

(c) Whoever violates this section is guilty of a minor misdemeanor and shall be subject to the penalty provided in Section 698.02.

618.08 REGISTRATION OF DOGS REQUIRED.

(a) No owner, keeper, or harbinger of a dog more than three months of age, nor owner of a dog kennel, shall fail to file an application for registration required by Ohio R.C. 955.01, nor shall he or she fail to pay the legal fee therefor.

(ORC 955.21)

(b) Whoever violates this section shall be fined not less than twenty-five dollars (\$25.00) nor more than one hundred dollars (\$100.00) on a first offense, and on each subsequent offense shall be fined not less than seventy-five dollars (\$75.00) nor more than two hundred fifty dollars (\$250.00) and may be imprisoned for not more than 30 days.

(ORC 955.99(E))

618.09 HINDERING CAPTURE OF UNREGISTERED DOG.

(a) No person shall obstruct or interfere with anyone lawfully engaged in capturing an unlicensed dog or making an examination of a dog wearing a tag.

(ORC 955.24)

(b) Whoever violates this section is guilty of a minor misdemeanor.

(ORC 955.99(B))

618.095 DOGS REQUIRED TO WEAR TAGS.

(a) No owner of a dog, except a dog constantly confined to a dog kennel registered under R.C. Chapter 955 or one licensed under R.C. Chapter 956, shall fail to require the dog to wear, at all times, a valid tag issued in connection with a certificate of registration. A dog found not wearing at any time a valid tag shall be prima-facie evidence of lack of registration and shall subject any dog found not wearing such a tag to impounding, sale, or destruction.

(ORC 955.10)

(b) Whoever violates this section is guilty of a minor misdemeanor.

(ORC 955.99(B))

618.10 UNLAWFUL TAGS.

(a) No person shall own, keep, or harbor a dog wearing a fictitious, altered, or invalid registration tag or a registration tag not issued by the County Auditor in connection with the registration of that animal.

(ORC 955.25)

(b) Whoever violates this section is guilty of a minor misdemeanor.

(ORC 955.99(B))

618.11 RABIES QUARANTINE.

(a) No person having knowledge of the existence of rabies in an animal, or knowledge that an animal has exhibited symptoms or behavior suggestive of rabies, or knowledge that an animal has bitten any person, shall fail to immediately report such information to the Mayor or the Chief of Police.

(b) Whenever it is established by the Mayor, the Chief of Police or the Dog Warden that any animal has bitten any person or exhibits symptoms or behavior suggestive of rabies, the person who owns, harbors or otherwise cares for such animal shall confine it in close quarantine and isolation or shall place such animal in the establishment of a veterinarian until, in either case, it is determined by the County Board of Health that the animal is not afflicted with rabies. The isolation and quarantine period hereby required shall be not less than ten days from the date the person was bitten. If the animal has, or develops, any symptoms suspicious of rabies during the ten-day period, the County Board of Health shall be notified immediately. All expenses incurred for the keeping of such animal, or the necessary tests to determine whether rabies exists, shall be borne exclusively by the person who owns, harbors or otherwise cares for such animal.

(c) Whoever violates this section is guilty of a minor misdemeanor and shall be subject to the penalty provided in Section 698.02.

618.12 HUNTING PROHIBITED; EXCEPTIONS.

(a) Except as provided in divisions (f) and (g) of this section, no person shall hunt with firearms or other weapons within the City, except for the taking of white-tailed deer with the use of archery equipment that is legal as described in O.A.C. 1501:31-15-11 and in accordance with the terms, requirements, restrictions and conditions of a Municipal Deer Control Permit on:

(1) Property not owned or managed by the City during Ohio's deer hunting seasons only after the following:

A. An application for a Municipal Deer Control Permit has been submitted to the Chief of Police during a designated application period containing:

1. A map, with boundaries outlined on the map, of the property or properties (collectively, the "subject property") on which the applicant (s) wishes to take deer and the approximate location(s) on the subject property where the shooter(s) will be stationed; and
2. The County Auditor's parcel numbers of the subject property and total acreage; and
3. Signatures of all owners of the subject property; and
4. A list of the names, current residence addresses and ages of all shooters that are applying to shoot on the subject property; and
5. Verification that each shooter identified in the application has a current Ohio Hunting License; and
6. Verification that each shooter identified in the application has satisfactorily completed the Ohio Hunter Education Course.

B. The Chief of Police or his designee has issued a Municipal Deer Control Permit to the applicant(s) after visiting the subject property and determining that shooting with archery equipment can be safely conducted on the subject property and approving the shooters identified in the application, taking into account the following factors:

1. Proximity of the proposed shooting locations to structures adjacent to the subject property; and
2. Characteristics of the subject property and neighboring properties.

(2) Property owned or managed by the City (the "subject City property") during Ohio's deer hunting seasons only after the following:

A. An application for a Municipal Deer Control Permit to take deer on the subject City property has been submitted to the Chief of Police during a designated application period containing:

1. A list of the names, current residence addresses and ages of all shooters that are applying to take deer on the subject City property; and
2. Verification that each shooter identified in the application has a current Ohio Hunting License; and
3. Verification that each shooter identified in the application has satisfactorily completed the Ohio Hunter Education Course.

B. The Chief of Police or his designee has issued a Municipal Deer Control Permit to the applicant(s) after visiting the subject property and determining that shooting with archery equipment can be safely conducted on the subject property and approving the shooters identified in the application, taking into account the following factors:

1. Proximity of the proposed shooting locations to structures adjacent to the subject property; and
2. Characteristics of the subject property and neighboring properties.

(3) Property not owned or managed by the City for which a Deer Damage Control Permit (ODNR 9003) from the Ohio Division of Wildlife has been issued (the "control property") only after the following:

A. Not later than 15 days after the owner(s) of the control property has received a Deer Damage Control Permit from the Ohio Division of Wildlife, an application by the owner of the control property for a Municipal Deer Control Permit to shoot on the control property has been submitted to the Chief of Police containing:

1. A map, with boundaries outlined on the map, of the control property and the approximate location(s) on the control property where the shooter(s) will be stationed; and
2. The County Auditor's parcel numbers of the control property and total acreage; and
3. A list of the names, current residence addresses and ages of all shooters that will be permitted to take deer on the control property; and
4. A copy of the Deer Damage Control Permit issued by the Ohio Division of Wildlife; and
5. Verification that each shooter identified in the application has a current Ohio Hunting License; and

6. Verification that each shooter identified in the application has satisfactorily completed the Ohio Hunter Education Course.

B. The Chief of Police or his designee has issued a Municipal Deer Control Permit to the applicant after visiting the control property and determining that shooting with archery equipment can be safely conducted on the control property and approving the shooters identified in the application, taking into account the following factors:

1. Proximity of the proposed shooting locations to structures adjacent to the control property; and
2. Characteristics of the control property and neighboring properties.

(4) Property owned or managed by the City for which a Deer Damage Control Permit from the Ohio Division of Wildlife has been issued (the "control City property") only after the following:

A. An application for a Municipal Deer Control Permit to take deer on the control City property has been submitted to the Chief of Police containing:

1. A list of the names, current residence addresses and ages of all shooters that are applying to take deer on the control City property; and
2. Verification that each shooter identified in the application has a current Ohio Hunting License; and
3. Verification that each shooter identified in the application has satisfactorily completed the Ohio Hunter Education Program.

B. The Chief of Police or his designee has issued a Municipal Deer Control Permit to the applicant(s) after determining that shooting with archery equipment can be safely conducted on the control City property and approving the shooters identified in the application, taking into account the following factors:

1. Proximity to structures adjacent to the control City property; and
2. Characteristics of the Control City Property and neighboring properties.

(b) A Municipal Deer Control Permit may be denied if:

- (1) Any of the applicants has violated any provision of this section on any prior occasion; or
- (2) The application is incomplete; or
- (3) False information has been provided on the application.

(c) The Chief of Police or his designee may attach to a Municipal Deer Control Permit any terms, requirements, restrictions or conditions that the Chief of Police or his designee may deem appropriate for the protection of the public or neighboring properties.

(d) Shooting may only be conducted from a fixed elevated position at least ten feet off the ground, unless the Chief of Police or his designee waives such requirement.

(e) Prior to the issuance of a Municipal Deer Control Permit, the Chief of Police or his designee shall personally notify or notify by ordinary mail the occupants of properties that share a common boundary with any portion of the subject property, subject City property, control property, or control City property, as the case may be, that an application for a Municipal Deer Control Permit for use on such subject property, subject City property, control property, or control City property has been received, unless the Chief of Police or his designee, in his discretion determines that such notification is unnecessary or impractical. The failure of the Chief of Police or his designee to provide such notification shall not invalidate a Municipal Deer Control Permit.

(f) Except as otherwise provided by and excepting white-tailed deer, taking by the use of traps shall not be prohibited.

(g) The City may utilize sharpshooters with firearms to cull white-tailed deer: (i) on property owned or managed by the City, (ii) with the consent of the co-owners or co-managers, on property co-owned or co-managed by the City, or, (iii) with the consent of the owners, on unimproved property (other than property owned or managed by the Lorain County Metropolitan Park District or its Board of Commissioners) that is contiguous at all points along its boundaries with: (A) property owned or managed by the Lorain County Metropolitan Park District or its Board of Commissioners, (B) property owned or managed by the City (including improved and unimproved streets), (C) property the owners of which have given their consent for sharpshooters to cull deer on their property in accordance with this subsection, or (D) a combination of properties described in the foregoing clauses (A), (B) or (C), provided that:

- (1) The Chief of Police or his designee has determined that such sharpshooting can be safely conducted on such property; and

(2) Such sharpshooters are obtained through a Federal or State agency; and

(3) Such culling has been approved by the Ohio Department of Natural Resources, Division of Wildlife.

(h) No person may, for the purpose of hindering or preventing the lawful culling of white-tailed deer pursuant to division (g) of this section engage in any of the following conduct:

(1) Block, obstruct, impede or attempt to block, obstruct or impede a person lawfully engaged in such culling;

(2) Erect a barrier with the intent to deny ingress or egress from the areas where such culling is lawfully being conducted;

(3) Make or attempt to make unauthorized physical contact with or in any way interfere with a person lawfully engaged in such culling; or

(4) Make or attempt to make loud noises or gestures, set out or attempt to set out animal baits, scents, lures or human scent, use any other natural or artificial visual, aural, olfactory or physical stimuli, or engage in or attempt to engage in any other similar action or activity in order to interfere with such culling.

(i) Whoever violates this section is guilty of a misdemeanor of the first degree and shall be subject to the penalty provided in Section 698.02.

(Ord. 4-2013. Passed 1-14-13; Ord. 104-2014. Passed 7-14-14; Ord. 28-2015. Passed 3-9-15.)

618.13 NUISANCE CONDITIONS PROHIBITED.

(a) No person shall keep or harbor any animal or fowl within the Municipality so as to create noxious or offensive odors or unsanitary conditions which endanger the health, comfort or safety of any other person, or contribute to the damage of real or personal property of any other person.

(b) No person shall intentionally or recklessly provide food within the Municipality to any wild or feral animal so as to create noxious or offensive odors or unsanitary conditions, endanger the health, comfort or safety of any other person, or contribute to the damage of real or personal property of any other person.

(c) As used in division (b), "food" does not include:

(1) Growing plants, including, but not limited to shrubs, trees, flowers, grasses, fruits, grains, nuts, seeds and vegetables; or

(2) Mulch and/or compost, including mulch and/or compost consisting of grains, fruits, vegetable material or residue from lawns, gardens or fields; or

(3) Food dispensed from bird feeders; or

(4) Food authorized by City Council or the Mayor to be fed to wildlife on a temporary basis for a specific public purpose as determined by the City Council or the Mayor; or

(5) Incidental spills, including spills of seed materials from bird feeders or of materials intended for planting or of crop materials that have been harvested if the spills are incidental to the feeding of birds or normal agricultural operations and such materials are not intentionally made available to wild or feral animals (other than birds feeding at such bird feeders); or

(6) Food provided by any Health Department employee, law enforcement officer or State or Federal game official acting within the scope of his or her official duties; or

(7) Food provided pursuant to activities permitted by the Ohio Division of Wildlife hunting regulations when provided by an individual holding a valid State hunting license and in those areas where wildlife hunting is otherwise authorized by law.

(d) Whoever violates this section and fails to cure such violation within five business days after receipt of notice of violation from the Police Department shall be guilty of a minor misdemeanor and shall be subject to the penalty provided in Ohio R.C. 2901.02(G).

(Ord. 78-2012. Passed 6-11-12.)

618.14 IMPOUNDING AND DISPOSITION; RECORDS.

(a) A police officer or animal warden may impound every dog or other animal found in violation of Section 618.01. If the impounded dog is not wearing a valid registration tag, the dog shall forthwith be turned over to an officer charged by law with the custody and disposal of such dogs. If the dog is wearing a valid registration tag or the identity of the owner or harbinger is otherwise established, notice shall immediately be given to such owner or harbinger that the dog has been impounded. Notice may be by telephone or by ordinary mail to the last known address of such owner or harbinger. The dog shall not be released except upon the payment of reasonable expenses for its taking and keeping. Any dog not redeemed within three days of the time it is seized or impounded may be sold or otherwise disposed of as provided by Ohio R.C. 955.16.

(b) A record of all dogs impounded, the disposition of the same, the owner's name and address, if known, and a statement of any costs or receipts involving such dog shall be kept.

618.15 RESERVED.

618.16 DANGEROUS AND VICIOUS DOGS. (REPEALED)

(EDITOR'S NOTE: Section 618.16 was repealed by Ord. 95-2012, passed June 25, 2012.)

618.17 NUISANCE, DANGEROUS AND VICIOUS DOGS; DEFINITIONS AND TRANSFER OF OWNERSHIP.

(a) The definitions and provisions as set forth in Ohio R.C. 955.11 shall apply inside the City, with the exception of Ohio R.C. 955.11(D), which shall be construed to include vicious dogs in addition to dangerous dogs.

(b) Notwithstanding the foregoing, "without provocation" in Sections 618.18 and 618.20 shall mean that a dog was not teased by a person or animal, tormented by a person or animal, or abused by a person, or that the dog was not coming to the aid or the defense of a person who was not engaged in illegal or criminal activity and who was not using the dog as a means of carrying out such activity.

(c) References in Sections 618.18 through 618.20 to Police Chief shall mean the Police Chief or his or her designee or any person authorized to enforce Ohio R.C. Chapter 955.

(Ord. 126-2015. Passed 10-13-15.)

618.18 DESIGNATION OF NUISANCE, DANGEROUS, AND VICIOUS DOGS.

(a) As used in this section, "nuisance dog," "dangerous dog," and "vicious dog" have the same meanings as in Ohio R.C. 955.11. As used in Sections 618.18 through 618.26, "final determination" means a determination that is not subject to appeal.

(b) The Police Chief shall have authority to determine whether a dog is a nuisance dog, dangerous dog, or vicious dog. This determination may be based upon an investigation that includes observation of and testimony about the dog's behavior, including the dog's upbringing and the owner's or keeper's control of the dog, and other relevant evidence as determined by the Police Chief. These observations and testimony can be provided by any witness who personally observed the behavior. Such witness shall sign a written statement attesting to the observed behavior and agree to provide testimony regarding the dog's behavior. Forms for providing witness testimony shall be made available at the Police Department.

(c) Upon reasonable determination by the Police Chief that a dog is a nuisance dog, dangerous dog, or vicious dog, the Police Chief shall give the dog's owner or keeper written notice by certified mail or personal service. The notice shall state:

- (1) The description of the dog;
- (2) The level of classification;
- (3) The facts upon which the classification is based;
- (4) The availability of a hearing to object to the classification and instructions to request that hearing;
- (5) The restrictions placed on the dog as a result of the classification;
- (6) The penalties for violation of the restrictions; and

(7) The availability of declassification procedures.

(d) Upon receipt of notice of the dog's classification as a nuisance dog, dangerous dog, or vicious dog pursuant to division (c) of this section, the owner or keeper shall comply with the restrictions specified in Section 618.20.

(e) If the owner, keeper, or harbinger of the dog disagrees with the designation of the dog as a nuisance dog, dangerous dog, or vicious dog, as applicable, the owner, keeper, or harbinger may request a hearing regarding the determination pursuant to Ohio R.C. 955.222.

(Ord. 126-2015. Passed 10-13-15.)

618.19 IMPOUNDMENT OF A DOG FOR PUBLIC SAFETY.

(a) As used in this section, "serious injury" has the same meaning as in Ohio R.C. 955.11.

(b) Upon a resultant death or serious injury of a domestic animal or human, the Police Department shall have the authority but not the duty, in the interest of public safety, to seize the killing/seriously injuring dog and impound it. Any person keeping or harboring a dog sought to be impounded shall give possession of such dog to a police officer or health officer upon demand.

(c) If a dangerous or vicious dog aggressively bites any person or domestic animal, the Police Department shall have the authority but not the duty, in the interest of public safety, to seize the offending dog and impound it. Any person keeping or harboring a dog sought to be impounded shall give possession of such dog to a police officer or health officer upon demand.

(d) The owner, keeper, or harbinger of the dog shall be responsible for any and all costs associated with the housing of the dog.

(e) A dog impounded pursuant to division (b) of this section shall remain impounded until there has been a final determination as to the dog's classification or until the owner or keeper provides satisfactory proof to the Police Chief that they have complied with all applicable provisions of Section 618.20 and renders payment for the costs of housing the dog. Upon a final determination, the owner or keeper of an impounded dog shall claim it within 14 calendar days by rendering proof to the Police Chief that they have complied with all applicable provisions of Section 618.20 and payment for the costs of housing the dog. If the dog is not claimed pursuant to the foregoing provisions, the City may dispose of the dog at its discretion.

(f) A dog impounded pursuant to division (c) of this section shall remain impounded until the court makes a final determination as to whether a violation of Section 618.20 has occurred or until the owner or keeper provides satisfactory proof to the Police Chief that they have complied with all applicable provisions of Section 618.20 and renders payment for the costs of housing the dog. Upon a final determination, the owner or keeper of an impounded dog shall claim it within 14 calendar days by rendering proof to the Police Chief that they have complied with all applicable provisions of Section 618.20 and payment for the costs of housing the dog. If the dog is not claimed pursuant to the foregoing provisions, the City may dispose of the dog at its discretion.

(g) Whoever violates division (b) or (c) of this section by refusing or otherwise purposefully failing to give possession of a dog that the Police Department is authorized by such divisions to seize and impound is guilty of a second degree misdemeanor and shall be subject to the penalty provided in Section 698.02.

(Ord. 126-2015. Passed 10-13-15.)

618.20 CONFINING, RESTRAINING, DEBARKING NUISANCE, DANGEROUS, AND VICIOUS DOGS.

(a) As used in this section, "nuisance dog", "dangerous dog", and "vicious dog" have the same meaning as in Ohio R.C. 955.11.

(b) No owner, keeper, or harbinger of a nuisance dog shall fail to do the following:

(1) While the dog is on the premises of the owner, keeper, or harbinger, so as to prevent it from causing injury to any person or domestic animal:

A. Securely confine the dog indoors;

B. Securely confine the dog in a locked pen which has a secured top and keep the dog under direct supervision by a person who is of sufficient size and strength to control the dog;

C. Securely confine the dog in a locked fenced yard, which fence is at least six feet tall, and keep the dog under direct

supervision by a person who is of sufficient size and strength to control the dog; or

D. Keep the dog restrained by a non-retractable tether or a leash no longer than six feet in length and have the leash or tether controlled by a person who is of sufficient size and strength to control the dog or securely attach, 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 person in close proximity.

(2) While the dog is off the premises of the owner, keeper, or harborer, so as to prevent it from causing injury to any person or domestic animal:

A. Keep the dog restrained by a non-retractable tether or a leash no longer than six feet in length and have the leash or tether controlled by a person who is of sufficient size and strength to control the dog or securely attach, 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 person in close proximity; and

B. Identify the dog with a leash, collar, harness, vest, or other garment that is colored neon yellow, without patterns or other adornments except designs intended to increase visibility of the dog at night. The identifying garment shall be visible and identifiable to an ordinary person from at least 15 feet away so as to provide reasonable warning to that person about the dog's classification.

(3) Post and display on the premises where the nuisance dog is kept a conspicuous and legible sign visible from all areas of customary or actual public access warning the public that there is a nuisance dog on the premises. Such sign shall be at least eight inches by ten inches in rectangular dimensions and shall contain only the words "NUISANCE DOG" in lettering not less than two inches in height. Such sign shall also include a visual symbol for any children or people who cannot read words. All signs in residential areas must be set back from the front property line a minimum of five feet. All signs are to be purchased from the City.

(4) Within ten calendar days of the notice of classification, provide the Police Department with an identifying color photograph of the dog and microchip information if the dog is microchipped.

(5) Notify the Police Department immediately if the dog is loose or unconfined or has aggressively bitten a human or a domestic animal.

(6) Notify the Police Department in writing within five calendar days if the dog is transferred to another owner or keeper or dies. If the dog is transferred to another owner, the written notice shall include the name, address, and phone number of the transferee.

(7) Notify veterinarians, veterinary staff, groomers, and other members of the public who come into direct contact with the designated dog that the dog has been designed as a nuisance dog prior to such contact.

(8) Maintain a policy of 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 ten thousand dollars (\$10,000.00) because of damage or bodily injury to or death of a person or animal caused by the dog. Such insurance must be obtained within 14 calendar days of the final determination of the dog as a nuisance dog. The owner of any nuisance dog shall provide a copy of the policy for liability insurance to the Police Chief on a yearly basis.

(c) No owner, keeper, or harborer of a dangerous or vicious dog shall fail to do the following:

(1) While the dog is on the premises of the owner, keeper, or harborer, so as to prevent it from causing injury to any person or domestic animal, securely confine it at all times:

A. In a locked pen that has a secured top, under the direct supervision of a person who is at least 18 years of age and of sufficient size and strength to control the dog;

B. In a locked, fenced yard, which fence is located in the rear yard with self-closing/ self-latching gates on any openings of the fenced yard, at least six feet tall, and restrained by a leash or tether no longer than ten feet in length controlled by a person who is at least 18 years of age and of sufficient size and strength to control the dog or securely attach, 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 person in close proximity; or

C. In any other locked enclosure that has a secured top, including a house. If the dog is confined in any other locked enclosure that has a top outdoors, keep the dog under the direct supervision of a person who is at least 18 years of age and of sufficient size and strength to control the dog.

(2) While that dog is off the premises of the owner, keeper, or harborer, so as to prevent it from causing injury to any person or domestic animal:

A. Muzzle the dog with a muzzle made in a manner that will not cause injury to the dog or interfere with its vision or respiration, but allows the dog to eat and drink and prevents it from biting any person or animal, and also keep the dog restrained by a

chain-link leash or tether no longer than six feet in length controlled by a person who is at least 18 years of age and of sufficient size and strength to control the dog or securely attach, 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 person in close proximity;

B. Keep the dog in a locked fenced yard, which fence is located in the rear yard with self-closing/self-latching gates on any openings of the fenced yard, at least six feet tall, and restrained by a leash or tether no longer than ten feet in length and have the leash or tether controlled by a person who is at least 18 years of age and of sufficient size and strength to control the dog or securely attach, 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 person in close proximity;

C. Keep the dog in a locked pen that has a secure top, under the direct supervision of a person who is at least 18 years of age and of sufficient size and strength to control the dog; or

D. Keep the dog in another locked enclosure that has a secure top, including a house. If the dog is confined in an other locked enclosure that has a top outdoors, keep the dog under the direct supervision of a person who is at least 18 years of age and of sufficient size and strength to control the dog.

(d) No owner, keeper, or harbinger of a dangerous or vicious dog shall fail to identify the dog at all times with a leash, collar, harness, vest, or other garment that is colored neon yellow, without patterns or other adornments except designs intended to increase visibility of the dog at night. While the dog is off the premises of the owner, keeper, or harbinger, the identifying garment shall be visible and identifiable to an ordinary person from at least 15 feet away so as to provide reasonable warning to that person about the dog's classification and to prevent the dog from causing injury to any person or domestic animal.

(e) No owner, keeper, or harbinger of a dangerous or vicious dog shall fail to do the following:

(1) Maintain a policy of 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) for a dangerous or vicious dog because of damage or bodily injury to or death of a person or animal caused by the dog. Such insurance must be obtained within 14 calendar days of the final determination of the dog as a dangerous or vicious dog. The owner or keeper of any dangerous or vicious dog shall provide a copy of the policy for liability insurance to the Police Chief on a yearly basis and provide proof of that liability insurance upon request to any law enforcement officer, county dog warden, or public health official charged with enforcing this section.

(2) Obtain a dangerous dog registration certificate from the County Auditor pursuant to Ohio R.C. 955.22(I) within 14 calendar days of the final determination of the dog as a dangerous or vicious dog, affix a tag that identifies the dog as a dangerous or vicious dog to the dog's collar, ensure that the dog wears the collar and tag at all times, and present the dangerous dog registration certificate upon being requested to do so by any law enforcement officer, dog warden, animal warden or control officer, or public health official, including evidence that the dog has been microchipped, rabies vaccinated, and neutered or spayed, unless a licensed veterinarian determines that neutering or spaying of the dog is medically contraindicated.

(3) Notify the local dog warden and Police Department immediately if any of the following occurs:

A. The dog is loose or unconfined.

B. The dog bites a person, unless the dog is on the property of the owner of the dog, and the person who is bitten is unlawfully trespassing or committing a criminal act within the boundaries of that property.

C. The dog attacks another animal while the dog is off the property of the owner of the dog.

D. The dog is sold, given to another person, or dies, within ten calendar days of the sale, transfer, or death, and also notify the County Auditor.

(4) Post and display on the premises where the dangerous or vicious dog is kept a conspicuous and legible sign visible from all areas of customary or actual public access warning the public that there is a dangerous or nuisance dog on the premises. Such sign shall be at least eight inches by ten inches in rectangular dimensions and shall contain only the words "DANGEROUS DOG" or "VICIOUS DOG" in lettering not less than two inches in height. Such sign shall also include a visual symbol for any children or people who cannot read words. All signs in residential areas must be setback from the front property line a minimum of five feet. All signs are to be purchased from the City.

(5) Within ten calendar days of the notice of classification, provide the Police Department with an identifying color photograph of the dog.

(6) Notify veterinarians, veterinary staff, groomers, and other members of the public who come into direct contact with the

designated dog that the dog has been designed as a dangerous or vicious dog prior to such contact.

(7) Successfully complete a dog obedience or behavior modification course that includes a minimum of six hours of in-person professional training or behavior modification within 90 calendar days of the final determination of the dog as a dangerous or vicious dog and provide proof of completion to the Police Chief.

(8) Consent to an inspection of the property where the dog is kept, other than within any private structure unless otherwise authorized by law, by the Police Chief for the purpose of determining compliance with the requirements of this section.

(f) No person shall do any of the following:

(1) Debark or surgically silence a dog that the person knows or has reason to believe is a dangerous or vicious dog;

(2) Possess a dangerous or vicious dog if the person knows or has reason to believe that the dog has been debarked or surgically silenced;

(3) Falsely attest on a waiver form provided by the veterinarian under Ohio R.C. 955.22(F) that the person's dog is not a dangerous or vicious dog or otherwise provide false information on that written waiver form. It is an affirmative defense to a charge of a violation of this division that the veterinarian who is charged with the violation obtained, prior to debarking or surgically silencing the dog, a written waiver form that complies with Ohio R.C. 955.22(F) and that attests that the dog is not a dangerous or vicious dog.

(g) Penalties.

(1) Whoever violates this section when the violation involves a nuisance dog is guilty of a misdemeanor of the fourth degree on the first offense, a misdemeanor of the third degree on the second offense, and a misdemeanor of the first degree on the third or any subsequent offense.

Notwithstanding the foregoing penalties, if the dog aggressively bites a domestic animal or human without provocation as a result of a violation of this section, then whoever violates this section is guilty of a misdemeanor of the first degree. Additionally, the court shall order the offender to complete dog obedience training within a specified period of time and provide written proof thereof to the Police Chief.

(2) Whoever violates this section when the violation involves a dangerous dog is guilty of a misdemeanor of the third degree on the first offense, a misdemeanor of the second degree on the second offense, and a misdemeanor of the first degree on the third or any subsequent offense.

Notwithstanding the foregoing penalties, if the dog aggressively bites a domestic animal or human without provocation as a result of a violation of this section, then whoever violates this section is guilty of a misdemeanor of the first degree. Additionally, the court shall order the offender to complete dog obedience training within a specified period of time and provide written proof thereof to the Police Chief. The court may further impose reasonable terms, conditions and restrictions deemed necessary to protect the public health, safety and welfare.

Notwithstanding the foregoing penalties, if the dog kills a domestic animal or causes serious injury to a human as a result of a violation of this section, then whoever violates this section is guilty of a misdemeanor of the first degree. The court may impose reasonable terms, conditions and restrictions deemed necessary to protect the public health, safety and welfare, including imposing additional keeping requirements on the dog while it is kept or harbored within the City, requiring the owner, keeper, or harbinger of the dog to temporarily or permanently remove the dog from being kept or harbored in the City, or requiring humane euthanasia of the dog by a licensed veterinarian.

(3) Whoever violates this section when the violation involves a vicious dog is guilty of a misdemeanor of the second degree on the first offense, a misdemeanor of the first degree on the second offense or any subsequent offense.

Notwithstanding the foregoing penalties, if the dog aggressively bites a domestic animal or human without provocation as a result of a violation of this section, then whoever violates this section is guilty of a misdemeanor of the first degree. Additionally, the court shall order the offender to complete dog obedience training within a specified period of time and provide written proof thereof to the Police Chief. The court may further impose reasonable terms, conditions and restrictions deemed necessary to protect the public health, safety and welfare.

Notwithstanding the foregoing penalties, if the dog kills domestic animal or causes serious injury to a human as a result of a violation of this section, then whoever violates this section is guilty of a misdemeanor of the first degree. The court may impose reasonable terms, conditions and restrictions deemed necessary to protect the public health, safety and welfare, including humane euthanasia of the dog by a licensed veterinarian.

Notwithstanding the foregoing penalties, it is a felony to be prosecuted under appropriate state law if the dog kills a person as a result of a violation of Ohio R.C. 955.22(C). The penalties in this section shall not apply whenever the conduct proscribed in this section constitutes a felony under Ohio R.C. 955.99.

(Ord. 126-2015. Passed 10-13-15; Ord. 165-2016. Passed 12-12-16.)

618.21 POTENTIAL NUISANCE DOG CLASSIFICATION.

(a) Definitions.

(1) Classification of a dog as a potential nuisance dog shall be based upon specific behaviors exhibited by the dog. For purposes of this section, behaviors establishing various levels of a potential nuisance dog are the following:

A. Level 1 classification is established if a dog off the premises of its owner, keeper, or harbinger aggressively bites any domestic animal without provocation.

B. Level 2 classification is established if a dog off the premises of its owner, keeper, or harbinger displays threatening or aggressive behavior toward or otherwise threatens or endangers the safety of any animal without provocation, or if a dog on the premises of its owner, keeper, or harbinger displays threatening or aggressive behavior toward or otherwise threatens or endangers the safety of any domestic animal or person without provocation.

(2) References to "designated dog" or "classified dog" in this section shall mean a dog classified as a Level 1 or Level 2 potential nuisance dog.

(3) References to "Police Chief" in Sections 618.21 through 618.26 shall mean the Police Chief or his or her designee.

(4) References to "Director of Public Safety" in Sections 618.21 through 618.26 shall mean the Director of Public Safety or his or her designee.

(b) The Police Chief shall have authority to determine whether a dog has engaged in the behaviors specified in divisions (a)(1)A. and B. This determination may be based upon an investigation that includes observation of and testimony about the dog's behavior, including the dog's upbringing and the owner's or keeper's control of the dog, and other relevant evidence as determined by the Police Chief. These observations and testimony can be provided by any witness who personally observed the behavior. Such witness shall sign a written statement attesting to the observed behavior and agree to provide testimony regarding the dog's behavior. Forms for providing witness testimony shall be made available at the Police Department.

(c) Upon reasonable determination by the Police Chief that a dog has engaged in a behavior specified in divisions (a)(1)A. and B., the Police Chief shall give the dog's owner or keeper written notice by certified mail or personal service. The notice shall state:

- (1) The description of the dog;
- (2) The level of classification;
- (3) The facts upon which the classification is based;
- (4) The availability of a hearing to object to the classification;
- (5) The restrictions placed on the dog as a result of the classification;
- (6) The penalties for violation of the restrictions; and
- (7) The availability of declassification procedures.

(d) Upon receipt of notice of the dog's classification as a Level 1 or 2 potential nuisance dog pursuant to division (c) of this section, the owner or keeper shall comply with the restrictions as specified in Section 618.22.

(e) Notwithstanding divisions (b) through (d) of this section, the Police Chief shall have discretionary authority to refrain from classifying a dog as a potential nuisance dog, even if the dog has engaged in the behaviors specified in divisions (a)(1)A. and B. of this section, if the Police Chief determines that the behavior was not unprovoked or other similar mitigating or extenuating circumstances existed.

(f) If a dog is classified pursuant to division (c) of this section, the owner or keeper of the dog shall have the right to an administrative hearing to object to the designation pursuant to Section 618.25. At hearing, the Police Chief must show, by a

preponderance of the evidence, that the designated dog is a Level 1 or Level 2 potential nuisance dog.

(Ord. 132-2015. Passed 10-13-15.)

618.22 CONTROL OF POTENTIAL NUISANCE DOGS.

(a) No owner, keeper, or harbinger of any Level 1 or 2 potential nuisance dog shall fail to do the following:

(1) While the dog is on the premises of the owner, keeper, or harbinger, so as to prevent it from causing injury to any person or domestic animal:

A. Securely confine the dog indoors;

B. Securely confine the dog in a locked pen which has a secured top and keep the dog under direct supervision by some person who is of sufficient size and strength to control the dog;

C. Securely confine the dog in a locked fenced yard, which fence is located in the rear yard with self-closing/self-latching gates on any openings of the fenced yard, at least six feet high, and keep the dog under direct supervision by a person who is of sufficient size and strength to control the dog; or

D. Keep the dog restrained by a non-retractable leash or tether no longer than six feet in length and have the leash or tether controlled by a person who is of sufficient size and strength to control the dog or securely attach, 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 person in close proximity.

(2) While the dog is off the premises of the owner, keeper, or harbinger, so as to prevent it from causing injury to any person or domestic animal:

A. Keep the dog restrained by a non-retractable tether leash or a leash no longer than six feet in length and have the leash or tether controlled by a person who is of sufficient size and strength to control the dog or securely attach, 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 person in close proximity; and

B. Identify the dog as a potential nuisance dog with a leash, collar, harness, vest, or other garment that is colored neon yellow, without patterns or other adornments except designs intended to increase visibility of the dog at night. The identifying garment shall be visible and identifiable to an ordinary person from at least 15 feet away so as to provide reasonable warning to that person about the dog's classification.

(3) Post and display on the premises where the potential nuisance dog is kept a conspicuous and legible sign visible from all areas of customary or actual public access warning the public that there is a Level 1 or 2 potential nuisance dog on the premises. Such sign shall be at least eight inches by ten inches in rectangular dimensions and shall contain only the words "LEVEL 1 THREAT DOG" or "LEVEL 2 THREAT DOG" in lettering not less than two inches in height. Such sign shall also include a visual symbol for any children or people who cannot read words. All signs in residential areas must be set back from the front property line a minimum of five feet. All signs are to be purchased from the City.

(4) Within ten calendar days of the notice of classification, provide the Police Department with an identifying color photograph of the dog and microchip information if the dog is microchipped.

(5) Notify the Police Department immediately if the dog is loose or unconfined or has aggressively bitten a human or another domestic animal.

(6) Notify the Police Department in writing within five calendar days if the dog is transferred to another owner or keeper or dies. If the dog is transferred to another owner, the written notice shall include the name, address, and phone number of the transferee.

(7) Notify veterinarians, veterinary staff, groomers, and other members of the public who come into direct contact with the designated dog that the dog has been designed as a Level 1 or Level 2 potential nuisance dog prior to such contact.

(b) In addition to the provisions of division (a) of this section, no owner or keeper of any Level 1 potential nuisance dog shall fail to do the following:

(1) Muzzle the dog while the dog is off the premises of the owner, keeper, or harbinger. The muzzle must be made in a manner that will not cause injury to the dog or interfere with its vision or respiration, but must prevent it from biting any person or animal.

(2) Microchip the dog within 14 calendar days of the final determination of the dog as Level 1 potential nuisance dog and provide

the microchip information to the Police Chief upon demand.

(3) Vaccinate the dog for rabies yearly and provide proof of vaccination to the Police Chief upon demand.

(4) Neuter or spay the dog within 14 calendar days of the final determination of the dog as Level 1 potential nuisance dog, unless a licensed veterinarian determines that neutering or spaying of the dog is medically contraindicated, and provide proof of alteration or exemption to the Police Chief upon demand.

(5) Maintain a policy of 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 ten thousand dollars (\$10,000) because of damage or bodily injury to or death of a person or animal caused by the dog. Such insurance must be obtained within 14 calendar days of the final determination of the dog as a Level 1 potential nuisance dog. The owner of any Level 1 potential nuisance dog shall provide a copy of the policy for liability insurance to the Police Chief on a yearly basis.

(c) Notwithstanding divisions (a) and (b) of this section, the Police Chief shall have the discretion to decrease or increase a classified dog's restrictions at the time of classification based upon relevant circumstances and may order the owner or keeper to complete dog obedience training within a specified period of time. The Police Chief shall notify the owner or keeper of any modifications to the restrictions in writing.

(d) Whoever violates this section when the violation involves a Level 2 potential nuisance dog is guilty of a misdemeanor of the fourth degree on the first offense, a misdemeanor of the third degree on the second offense, and a misdemeanor of the first degree on the third or any subsequent offense. Notwithstanding the foregoing penalties, if a domestic animal or human is aggressively bitten by the dog without provocation as a result of a violation of this section, then whoever violates this section is guilty of a misdemeanor of the first degree. Additionally, the court shall order the offender to complete dog obedience training within a specified period of time and provide written proof thereof to the Police Chief.

(e) Whoever violates this section when the violation involves a Level 1 potential nuisance dog is guilty of a misdemeanor of the third degree on the first offense, a misdemeanor of the second degree on the second offense, and a misdemeanor of the first degree on the third or any subsequent offense. Notwithstanding the foregoing penalties, if a domestic animal or human is aggressively bitten by the dog without provocation as a result of a violation of this section, then whoever violates this section is guilty of a misdemeanor of the first degree. Additionally, the court shall order the offender to complete dog obedience training within a specified period of time and provide written proof thereof to the Police Chief.

(Ord. 132-2015. Passed 10-13-15.)

618.23 DECLASSIFICATION OF DOGS.

(a) Level 2 potential nuisance dogs shall be declassified when, for a period of one year following the classification, there have been no further Level 2 behaviors demonstrated or violations of Section 618.22.

(b) Level 1 potential nuisance dogs and nuisance dogs shall be declassified when, for a period of one year following the classification, there have been no Level 1 or Level 2 behaviors demonstrated or violations of Section 618.22 or Ohio R.C. 955.22, and the owner or keeper has satisfactorily completed obedience training for the dog classified.

(c) Dangerous dogs shall be declassified when, for a period of four years following the classification, there have been no Level 1, Level 2, nuisance dog, or dangerous dog behaviors demonstrated or violations of Section 618.20 or Ohio R.C. 955.22, and the owner or keeper has satisfactorily completed obedience training for the dog classified and has passed the American Kennel Club "Canine Good Citizen" test.

(d) The owner or keeper of the dog seeking declassification shall file a written application with the Police Department that demonstrates satisfaction of all required declassification conditions.

(e) Upon declassification, the restrictions for dogs classified as a Level 1 or 2 potential nuisance dog or nuisance dog shall be removed and restrictions on dogs classified as a dangerous dog shall be removed, with the exception of the insurance requirements.

(f) Upon reasonable determination by the Police Chief that a dog meets the requirements for declassification, the Police Chief shall give the dog's owner or keeper written notice by certified mail or personal service.

(g) If the Police Chief denies the declassification application, the Police Chief shall give the dog's owner or keeper written notice by certified mail or personal service notifying the owner or keeper of the right to object to that determination pursuant to Section 618.25. At hearing, the dog's owner or keeper must show, by clear and convincing evidence, that all condition of declassification have been

satisfied.

(h) If a declassification application is denied, the owner or keeper may reapply for declassification after a period of six months has elapsed.

(Ord. 132-2015. Passed 10-13-15.)

618.24 DOG CLASSIFIED BY ANOTHER JURISDICTION.

(a) Any person desiring to bring a dog to live in the City which has been previously declared to be a nuisance dog, dangerous dog, vicious dog, or similar designation in another jurisdiction, under the provisions of Ohio R.C. 955.11 et seq., or comparable local ordinance, must notify the Police Department prior to moving the dog to the City.

(b) The Police Chief shall have authority to determine whether a previously classified dog has engaged in the behaviors specified in Sections 618.17 or 618.21. This determination may be based upon an investigation that includes observation of and testimony about the dog's behavior, including the dog's upbringing and the owner's or keeper's control of the dog, and other relevant evidence as determined by the Police Chief. The owner or keeper of the dog shall provide the Police Chief with all information requested related to that dog.

(c) Upon reasonable determination by the Police Chief that a previously classified dog has engaged in the behaviors specified in Sections 618.17 or 618.21, the Police Chief shall give the dog's owner or keeper written notice by certified mail or personal service. The notice shall state:

- (1) The description of the dog;
- (2) The level of classification;
- (3) The facts upon which the classification is based;
- (4) The availability of a hearing to object to the classification;
- (5) The restrictions placed on the dog as a result of the classification;
- (6) The penalties for violation of the restrictions; and
- (7) The availability of declassification procedures.

(d) Upon receipt of notice of the dog's classification as a potential nuisance dog, nuisance dog, dangerous dog, or vicious dog pursuant to division (c) of this section, the owner or keeper shall comply with the restrictions specified in Section 618.18 or 618.22 for that dog.

(e) If a dog is classified pursuant to division (c) of this section, the owner or keeper of the dog shall have the right to an administrative hearing to object to the designation pursuant to Section 618.25. At hearing, the dog's owner or keeper must show, by clear and convincing evidence, that the classification as determined by the Police Chief does not match the dog's previous behavior or classification.

(f) Whoever violates division (a) of this section is guilty of a second degree misdemeanor and shall be subject to the penalty provided in Section 698.02.

(Ord. 132-2015. Passed 10-13-15.)

618.25 OBJECTION HEARINGS.

(a) If a dog is classified pursuant to Sections 618.21 or 618.24, or is denied declassification pursuant to Section 618.23, the owner or keeper of the dog shall have the right to an administrative hearing to object to the determination. The hearing shall be heard by the Director of Public Safety. An owner or keeper has ten calendar days from the date listed on the written notice of the determination to inform the Director of Public Safety in writing that a hearing is requested. The Director of Public Safety will schedule the hearing and notify the party requesting the hearing in writing of the time, date, and location of the hearing.

(b) The objection hearing shall be conducted as follows:

(1) Parties may appear pro se or be represented by an attorney.

(2) Parties may present their position, arguments, and contentions, including by making statements, presenting evidence, and offering witnesses on their behalf, on any relevant issue.

(3) Parties may refute evidence and testimony offered in opposition to their position, arguments, and contentions, including by making statements, presenting evidence, and offering witnesses on their behalf, on any relevant issue.

(4) Parties shall be entitled to the right of cross-examination.

(5) The hearing shall be quasi-judicial in nature and all testimony shall be under oath.

(6) Any party shall be entitled to transcribe the proceeding at his own cost.

(7) After considering all substantial, reliable and probative evidence accepted for review, the Director of Public Safety shall affirm, deny, or affirm with conditions the determination.

(8) Within five business days of such hearing, the Director of Public Safety shall issue a written decision making a factual finding as to the determination and shall serve the decision upon all parties. The decision of the Director of Public Safety is a final order.

(Ord. 132-2015. Passed 10-13-15.)

618.26 DANGEROUS AND VICIOUS DOG OWNERSHIP RESTRICTIONS.

(a) No person shall own, keep, maintain, allow, harbor, or permit more than one dangerous or vicious dog at any one residence that has aggressively bitten and killed a dog or aggressively bitten and caused serious injury or death to a person.

(b) The provisions as set forth in Ohio R.C. 955.54 shall apply inside the City, with the exception of division (A)(2), which shall be construed to include vicious dogs in addition to dangerous dogs.

(c) Penalty.

(1) Whoever violates division (a) of this section is guilty of a second degree misdemeanor and shall be subject to the penalty provided in Section 698.02.

(2) Whoever violates division (b) of this section is guilty of a first degree misdemeanor and shall be subject to the penalty provided in Section 698.02.

(Ord. 132-2015. Passed 10-13-15.)

618.27 EXEMPTIONS.

Chapter 618 of this Code shall exempt the following:

(a) Any dog which is lawfully engaged in hunting or training for the purpose of hunting while accompanied by a licensed hunter. However, such dogs at all other times and in all other respects shall be subject to the ordinance or resolution permitted by this section, unless actually in the field and engaged in hunting or in legitimate training for such purpose;

(b) A service animal, as defined by the Americans with Disabilities Act and the regulations promulgated pursuant thereto, that has caused injury or serious injury to any person or has killed a person or a domestic animal while the service animal is actually being used to assist a person in the performance of that animal's trained duties; and

(c) A police dog that has caused injury or serious injury to any person or has killed a person or a domestic animal while the police dog is actually being used to assist one or more law enforcement officers in the performance of their official duties.

(Ord. 132-2015. Passed 10-13-15.)

618.28 STRICT LIABILITY.

Strict liability is imposed for the violation of any provision of Sections 618.01, 618.19, 618.20, 618.22, 618.24, and 618.26.

(Ord. 165-2016. Passed 12-12-16.)