

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

Animal Control Warden - see ADM. Ch. 238

Animals upon roadways - see TRAF. 303.05, 303.06

Definitions generally - see GEN. OFF. 606.01

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

Pets at Lake Anna Park - see S.U. & P.S. 1068.025

618.01 DOGS AND OTHER ANIMALS RUNNING AT LARGE

(a) No person, who is the owner or keeper of horses, mules, cattle, bison, sheep, goats, swine, llamas, alpacas, or geese, shall permit them to run at large in the public road, highway, street, lane, or alley, or upon unenclosed land, or cause the animals to be herded, kept, or detained for the purpose of grazing on premises other than those owned or lawfully occupied by the owner or keeper of the animals.

(ORC 951.02)

(b) (1) No owner, keeper, or harbinger of any dog shall permit such dog to go beyond the premises of such owner or keeper at any time, unless such dog is properly in leash.

(2) As used in this section, "properly in leash" means that the dog must be restrained by a leash not to exceed five feet in length and of sufficient strength to allow the person in control of the dog to maintain proper control over the dog.

(Ord. 146-1977. Passed 7-5-77.)

(c) (Reserved)

(d) (1) Whoever violates any provision of this section for a first or second offense is guilty of a minor misdemeanor and any subsequent offense(s) shall constitute a fourth (4th) degree misdemeanor, and shall be fined as follows:

- A. Not less than one hundred dollars (\$100.00) for the first offense;
- B. Not less than one hundred fifty dollars (\$150.00) for the second offense;
- C. Not less than two hundred fifty dollars (\$250.00) for any subsequent offense(s).

(2) All fines collected shall be placed in a separate fund devoted solely to furthering animal control purposes.

(3) The owner of the animal shall also be responsible for the costs incurred by the City in boarding such animal, if any.

(e) The Finance Director is hereby authorized to create the fund referred to above in division (d)(2).

(Ord. 124-1977. Passed 6-20-77; Ord. 80-2007. Passed 5-29-07.)

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) (Ord. 261-1957. Passed 12-2-57.)

(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 Ohio R.C. 956.01.

B. "Captive white-tailed deer" has the same meaning as in Ohio 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 Ohio 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 Ohio 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 Ohio R.C. 1717.01.

L. "Torture" has the same meaning as in Ohio R.C. 1717.01.

M. "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 Ohio 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 Ohio 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 Ohio R.C. 1717.06 or to provide additional training for humane agents.

(ORC 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.

(ORC 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 ANIMAL FIGHTS.

(A) No person shall knowingly engage in or be employed at cockfighting, bearbaiting, or pitting an animal against another, no person shall receive money for the admission of another to a place kept for this purpose; no person shall use, train, or possess any animal for seizing, detaining, or mistreating a domestic animal. Any person who knowingly purchases a ticket of admission to such place, or is present thereat, or witnesses such spectacle, is an aider and abettor.

(ORC 959.15)

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

(ORC 959.99(C))

Statutory reference:

Dogfighting, felony provisions, see Ohio R.C. 959.16

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 Ohio R.C. Chapter 955 or one licensed under Ohio 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 shall violate a rabies quarantine order issued under Ohio R.C. 955.26.

(ORC 955.39)

(b) Whoever violates this section is guilty of a minor misdemeanor for a first offense; for each subsequent offense such person is guilty of a misdemeanor of the fourth degree.

(ORC 955.99(C))

618.12 RIGHTS OF BLIND, DEAF OR HEARING IMPAIRED, OR MOBILITY IMPAIRED PERSON, OR TRAINER WITH ASSISTANCE DOG.

(a) When either a blind, deaf or hearing impaired, or mobility impaired person, or a trainer of an assistance dog is accompanied by an assistance dog, the person or the trainer, as applicable, is entitled to the full and equal accommodations, advantages, facilities, and privileges of all public conveyances, hotels, and lodging places, all places of public accommodation, amusement, or resort, and other places to which the general public is invited, and may take the dog into such conveyances and places, subject only to the conditions and limitations applicable to all persons not so accompanied, except that:

(1) The dog shall not occupy a seat in any public conveyance; and

(2) The dog shall be leashed while using the facilities of a common carrier.

(3) Any dog in training to become an assistance dog shall be covered by a liability insurance policy provided by the nonprofit special agency engaged in such work protecting members of the public against personal injury or property damage caused by the dog.

(b) No person shall deprive a blind, deaf or hearing impaired, or mobility impaired person, or a trainer of an assistance dog who is accompanied by an assistance dog of any of the advantages, facilities, or privileges provided in division (a) of this section, nor charge the person or trainer a fee or charge for the dog.

(R.C. § 955.43(A), (B))

(c) As used in this section:

(1) "Assistance dog" means a guide dog, hearing dog, or service dog that has been trained by a nonprofit special agency.

(2) "Blind" means either of the following:

A. Vision 20/200 or less in the better eye with proper correction;

B. Field defect in the better eye with proper correction that contracts the peripheral field so that the diameter of the visual field subtends an angle no greater than 20 degrees.

(3) "Guide dog" means a dog that has been trained or is in training to assist a blind person.

(4) "Hearing dog" means a dog that has been trained or is in training to assist a deaf or hearing-impaired person.

(5) "Institutions of education" means:

A. Any state university or college as defined in R.C. § 3345.32;

B. Any private college or university that holds a certificate of authorization issued by the Ohio Board of Regents pursuant to R.C. Chapter 1713;

C. Any elementary or secondary school operated by a board of education;

D. Any chartered or nonchartered nonpublic elementary or secondary school; or

E. Any school issued a certificate of registration by the state Board of Career Colleges and Schools.

(6) "Mobility impaired person" means any person, regardless of age, who is subject to a physiological defect or deficiency regardless of its cause, nature, or extent that renders the person unable to move about without the aid of crutches, a wheelchair, or any other form of support, or that limits the person's functional ability to ambulate, climb, descend, sit, rise, or perform any related function. "Mobility impaired person" includes a person with a neurological or psychological disability that limits the person's functional ability to ambulate, climb, descend, sit, rise, or perform any related function, and also includes a person with a seizure disorder and a person who is diagnosed with autism.

(7) "Service dog" means a dog that has been trained or is in training to assist a mobility impaired person.

(ORC 955.011(B), 955.43(C))

(d) Whoever violates any provision of this section shall be guilty of a misdemeanor of the fourth degree.

(ORC 955.99(D))

618.13 BARKING DOGS.

(a) No person shall keep, harbor or maintain, within the City, any dog which, by loud, frequent or habitual barking, yelping or howling, disturbs the peaceful living of any person or makes such a noise as is likely to cause inconvenience or annoyance to persons of ordinary sensibilities.

(b) It is prima facie unlawful, during any hours of the day, for a person to keep, harbor or maintain a dog that barks, howls or yelps for more than ten minutes substantially uninterrupted in an area zoned residential under the Barberton Zoning Code, or any

amendments thereto, or in a commercial area adjacent to said residential area.

(c) None of the provisions of divisions (a) and (b) of this section shall apply to owners, operators or employees of duly licensed veterinary hospitals; owners, operators or employees of duly licensed kennels or animal boarding establishments; and blind persons when the dog serves as a guide or leader.

(d) Whoever violates this section is guilty of a minor misdemeanor for a first offense and a misdemeanor of the fourth degree for each subsequent offense. A separate offense shall be deemed committed each day during or on which a violation occurs or continues.

(Ord. 46-1992. Passed 4-27-92.)

618.14 BIRDS.

(a) No person shall kill or injure any wild bird, or throw, fire or shoot a bullet, stone, arrow or other missile at a bird; or break, tear down or destroy any bird nest or the eggs or other contents of the nest; or catch or capture any wild bird; or set traps or spread nets or snares with intent to catch or capture the same; or follow or pursue the same with intent to catch or injure it.

(Ord. 261-1957. Passed 12-2-57.)

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

618.15 HARBORING OF BEES; NOTIFICATION TO ABATE.

(a) No person shall keep or harbor bees which cause annoyance to other persons or damage to the property of others.

(b) Upon complaint being made, the Mayor is authorized and directed to notify the owner or keeper of the bees to abate the nuisance and to remove the hives or other contrivances, where the bees are kept or harbored, within ten days after being notified thereof. No person shall fail to comply with such abatement order.

(Ord. 261-1957. Passed 12-2-57.)

(c) Whoever violates any of the provisions of this section is guilty of a misdemeanor of the third degree. A separate offense shall be deemed committed each day during or on which a violation occurs or continues.

618.16 HUNTING.

(a) No person shall hunt any wild animal, fowl or other game within the corporate limits of the City. The provisions of this section shall apply regardless of the weapon, instrument or other device used.

(Ord. 5-1971. Passed 1-4-71.)

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

618.17 DOG NUISANCE PROHIBITED; ABATEMENT.

No person being the owner or person in charge of a dog shall permit such dog while at large or upon a leash in the City to:

(a) Defecate upon any public land or any private land other than the land where the owner or person in charge of such dog resides.

(b) The owner or person in charge of any dog which defecates on any such prohibited land shall immediately clean such and cause its removal to a proper receptacle.

(c) The owner or person in charge of any dog shall keep the property where he resides in a clean and sanitary condition by regularly removing the defecation of his dog to prevent accumulations.

(d) The terms of this section shall not apply to any dog which has been expressly invited to enter upon private property by notification to the owner or keeper of such dog, or to any dog engaging in the pursuit of hunting.

(e) The defecation of any dog is hereby declared to be a nuisance, creating an unsanitary and unhealthful condition, causing an accumulation of insects and bacteria, and in violation of the regulations of this section, is hereby declared to be unlawful and a misdemeanor.

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

(Ord. 241-1977. Passed 10-3-77.)

618.18 DANGEROUS ANIMALS.

(a) As used in this section "dangerous animal" means and includes any mammal, amphibian, reptile or fowl which is of a species which is wild by nature, and of a species which, due to its size, vicious nature or other characteristic, is dangerous to human beings. Such animals include, but are not limited to, lions, tigers, leopards, panthers, bears, wolves, apes, gorillas, monkeys of a species whose average adult weight is twenty pounds or more, foxes, elephants, rhinoceroses, alligators, crocodiles and all forms of venomous, poisonous or constricting reptiles. "Dangerous animal" does not include gerbils, hamsters, guinea pigs, mice or rabbits.

(b) No person shall possess, keep or maintain a dangerous animal in the City.

(c) The provisions of this section shall not apply to the keeping of dangerous animals in the following cases:

(1) The keeping of such animals in zoos, bona fide education or medical institutions, museums or any other place where they are kept as live specimens for the public view or for the purpose of instruction or study;

(2) The keeping of such animals for exhibition to the public by a circus, carnival or other exhibit or show;

(3) The keeping of such animals in a bona fide, licensed veterinary hospital for treatment; or

(4) The keeping and offering for sale of such animals by a bona fide commercial pet shop establishment.

(d) Whoever violates this section is guilty of a misdemeanor of the third degree. A separate offense shall be deemed committed each day during or on which a violation occurs or continues.

(Ord. 107-1981. Passed 7-13-81.)

618.19 DANGEROUS DOGS.

(a) As used in this section, "dangerous dog" means and includes:

(1) Any dog with a known propensity, tendency or disposition to attack unprovoked, to cause injury or to otherwise endanger the safety of human beings or domestic animals;

(2) Any dog which attacks a human being or domestic animal without provocation; or

(3) Any dog owned or harbored primarily or in part for the purpose of dog fighting or any dog trained for dog fighting.

(4) The term "dangerous dog" shall include Pit Bull Terriers. The term "Pit Bull Terrier" is hereby defined as any Staffordshire Bull Terrier breed of dog, any American Staffordshire breed of dog, or any mixed breed of dog which contains as an element of its breeding the breed of Staffordshire Terrier as to be identifiable as partially of the breed of Staffordshire Bull Terrier or American Staffordshire Terrier.

No dog shall be deemed dangerous if it bites, attacks or menaces a trespasser on the property of its owner or harms or menaces anyone who has tormented or abused it.

(b) No person owning, harboring or having the care or custody of a dangerous dog shall suffer or permit such dog to go unconfined on the premises of such person. A dangerous dog is "unconfined" if such dog is not securely confined indoors or confined in a securely enclosed and locked pen or dog run area upon the premises of such person. Such pen or dog run area must have either a secure top or sides that are at least six feet high. If the pen or structure has no bottom secured to the sides, or if a dog is a type which burrows, the sides must be imbedded into the ground not less than one foot. Such pen or structure shall be set back at least four feet from any adjacent property line. Such structure shall be clearly marked with a sign containing the words "Dangerous Dog." Further, a sign shall also be placed on the premises where the pen or structure is located so as to be clearly legible from the public street or sidewalk adjacent to the premises, indicating that a dangerous dog is located on said premises.

(c) No person owning, harboring or having the care or custody of a dangerous dog shall suffer or permit such dog to go beyond the premises of such person unless such dog is securely muzzled and restrained with a chain having a minimum tensile strength of 300 pounds and not exceeding three feet in length.

(d) No person shall own or harbor any dog for the purpose of dog fighting, or train, torment, badger, bait or use any dog for the purpose of causing or encouraging such dog to unprovoked attacks upon human beings or domestic animals.

(e) No person shall possess with intent to sell, or offer for sale, breed, buy or attempt to buy, within the City, any dangerous dog.

(f) Any person owning, harboring or having the care or custody of any dangerous dog shall maintain a policy of insurance in an amount not less than one hundred thousand dollars (\$100,000) insuring such person against any claim, loss, damage or injury to persons, domestic animals or property resulting from the acts of the dangerous dog. Such person shall file a copy of such insurance policy with the Police Division.

(g) If a law enforcement agent has probable cause to believe that a dangerous dog is being harbored or cared for in violation of divisions (b), (c) or (d) of this section, the law enforcement agent may petition a court of competent jurisdiction to order the seizure and impoundment of the dangerous dog pending trial. If a law enforcement agent has probable cause to believe that a dangerous dog is being harbored or housed in violation of division (c) or (d) of this section, the law enforcement agent may seize and impound the dangerous dog pending trial.

(h) Whoever violates any of the provisions of this section is guilty of a misdemeanor of the first degree. For a second offense, whoever violates any of the provisions of this section is guilty of a misdemeanor of the first degree and shall be fined one thousand dollars (\$1,000), which fine shall be mandatory and shall not be suspended or remitted, and may be imprisoned for not more than six months.

(i) Any dangerous dog which attacks a human being or another domestic animal may be ordered destroyed when, in the court's judgment, such dangerous dog represents a continuing threat of serious harm to human beings or domestic animals.

(j) Any person found guilty of violating this section shall pay all expenses, including shelter, food and veterinary expenses, necessitated by the seizure of any dog for the protection of the public, and such other expense as may be required for the destruction of such dog.

(k) No Pit Bull Terrier, as it is defined in division (a) of this section, shall be kept, stored, harbored, maintained, owned and/or housed within the city limits unless all of the following conditions are met as approved by the City Safety Director:

(1) Anyone owning, harboring, or having the care or custody of a Pit Bull Terrier shall have registered the dog or dogs with the County of Summit, State of Ohio, no later than the effective date of Ordinance 181-2007 and written verification of the same is provided to police upon request and kept on file with the City;

(2) The owner has never been convicted anywhere with keeping a dangerous dog, or some other similar law and the dog has never been declared by a court to be a dangerous dog;

(3) The owner has never been convicted more than twice for dog at large and/or any other "leash law" type violation;

(4) The owner has never been convicted of cruelty to animals and/or any similar offense;

(5) The pit bull or pit bulls have been spayed/neutered as of the effective date of the ordinance and written verification of the same is provided to police upon request and kept on file with the city;

(6) The dog owner does not currently owe the City of Barberton any other outstanding fines or penalties;

(7) The dog owner has properly insured the dog per the requirements of the within ordinance and has provided the City with proof of same pursuant to this current ordinance governing pit bull ownership;

(8) The dog has had a scannable microchip implanted so as to permit verifiable identification and/or tracking by City officials. Such microchip implant must be obtained at the owner's cost and verification that same has been obtained must be kept on file with the City;

(9) The dog owner has complied with this ordinance with respect to any and all of its other provisions including, but not limited to, any requirements regarding the proper enclosure and restraint of dogs;

(l) For purposes of division (k), the term "owner" is hereby defined to include any individual and/or entity who is temporarily in custody and/or possession of a pit bull.

(m) Divisions (k) and (l) shall take effect on February 1, 2008.

(Ord. 113-1987. Passed 4-13-87; Ord 115-1989. Passed 7-10-89; Ord. 181-2007. Passed 12-17-07.)

618.20 TEASING OR STRIKING POLICE DOG, POLICE HORSE OR HANDICAPPED ASSISTANCE DOG.

(a) No person shall maliciously or willfully tease or strike a police dog, police horse or handicapped assistance dog.

(b) No person shall purposely interfere with or meddle with any police dog, police horse or handicapped assistance dog.

(c) A person violates division (a) of this section if he or she willfully and maliciously taunts, torments, teases or strikes any police dog, police horse or handicapped assistance dog. A person commits a violation of division (b) of this section if he or she interferes with or meddles with any police dog, police horse or handicapped assistance dog in the performance of their functions or duties.

(d) Whoever violates this section is guilty of a misdemeanor of the third degree.

(Ord. 56-1996. Passed 4-8-96.)

618.21 ASSAULTING POLICE DOG OR HORSE OR ASSISTANCE DOG.

(a) No person shall knowingly cause, or attempt to cause, physical harm to a police dog or horse in either of the following circumstances:

(1) The police dog or horse is assisting a law enforcement officer in the performance of the officer's official duties at the time the physical harm is caused or attempted.

(2) The police dog or horse is not assisting a law enforcement officer in the performance of the officer's official duties at the time the physical harm is caused or attempted, but the offender has actual knowledge that the dog or horse is a police dog or horse.

(b) No person shall recklessly do any of the following:

(1) Taunt, torment, or strike a police dog or horse;

(2) Throw an object or substance at a police dog or horse;

(3) Interfere with or obstruct a police dog or horse, or interfere with or obstruct a law enforcement officer who is being assisted by a police dog or horse, in a manner that does any of the following:

A. Inhibits or restricts the law enforcement officer's control of the police dog or horse;

B. Deprives the law enforcement officer of control of the police dog or horse;

C. Releases the police dog or horse from its area of control;

D. Enters the area of control of the police dog or horse without the consent of the law enforcement officer, including placing food or any other object or substance into that area;

E. Inhibits or restricts the ability of the police dog or horse to assist a law enforcement officer;

(4) Engage in any conduct that is likely to cause serious physical injury or death to a police dog or horse.

(5) If the person is the owner, keeper, or harbinger of a dog, fail to reasonably restrain the dog from taunting, tormenting, chasing, approaching in a menacing fashion or apparent attitude of attack, or attempting to bite or otherwise endanger a police dog or horse that at the time of the conduct is assisting a law enforcement officer in the performance of the officer's duties or that the person knows is a police dog or horse.

(c) No person shall knowingly cause, or attempt to cause, physical harm to an assistance dog in either of the following circumstances:

(1) The dog is assisting or serving a blind, deaf or hearing impaired, or mobility impaired person at the time the physical harm is caused or attempted.

(2) The dog is not assisting or serving a blind, deaf or hearing impaired, or mobility impaired person at the time the physical harm is caused or attempted, but the offender has actual knowledge that the dog is an assistance dog.

(d) No person shall recklessly do any of the following:

(1) Taunt, torment, or strike an assistance dog;

(2) Throw an object or substance at an assistance dog;

(3) Interfere with or obstruct an assistance dog, or interfere with or obstruct a blind, deaf or hearing impaired, or mobility impaired person who is being assisted or served by an assistance dog, in a manner that does any of the following:

A. Inhibits or restricts the assisted or served person's control of the dog;

B. Deprives the assisted or served person of control of the dog;

C. Releases the dog from its area of control;

D. Enters the area of control of the dog without the consent of the assisted or served person, including placing food or any other object or substance into that area;

E. Inhibits or restricts the ability of the dog to assist the assisted or served person;

(4) Engage in any conduct that is likely to cause serious physical injury or death to an assistance dog;

(5) If the person is the owner, keeper, or harbinger of a dog, fail to reasonably restrain the dog from taunting, tormenting, chasing, approaching in a menacing fashion or apparent attitude of attack, or attempting to bite or otherwise endanger an assistance dog that at the time of the conduct is assisting or serving a blind, deaf or hearing impaired, or mobility impaired person or that the person knows is an assistance dog.

(e) (1) Whoever violates division (a) of this section is guilty of assaulting a police dog or horse. Except as otherwise provided in this division, assaulting a police dog or horse is a misdemeanor of the second degree. If the violation results in physical harm to the police dog or horse other than death or serious physical harm, assaulting a police dog or horse is a misdemeanor of the first degree. If the violation results in serious physical harm to the police dog or horse or results in its death, assaulting a police dog or horse is a felony to be prosecuted under appropriate State law.

(2) Whoever violates division (b) of this section is guilty of harassing a police dog or horse. Except as otherwise provided this division, harassing a police dog or horse is a misdemeanor of the second degree. If the violation results in physical harm to the police dog or horse but does not result in its death or in serious physical harm to it, harassing a police dog or horse is a misdemeanor of the first degree. If the violation results in serious physical harm to the police dog or horse or results in its death, harassing a police dog or horse is a felony to be prosecuted under appropriate State law.

(3) Whoever violates division (c) of this section is guilty of assaulting an assistance dog. Except as otherwise provided in this division, assaulting an assistance dog is a misdemeanor of the second degree. If the violation results in physical harm to the assistance dog other than death or serious physical harm, assaulting an assistance dog is a misdemeanor of the first degree. If the violation results in serious physical harm to the assistance dog or results in its death, assaulting an assistance dog is a felony to be prosecuted under appropriate State law.

(4) Whoever violates division (d) of this section is guilty of harassing an assistance dog. Except as otherwise provided in this division, harassing an assistance dog is a misdemeanor of the second degree. If the violation results in physical harm to the assistance dog but does not result in the death or in serious physical harm to it, harassing an assistance dog is a misdemeanor of the first degree. If the violation results in serious physical harm to the assistance dog or results in its death, harassing an assistance dog is a felony to be prosecuted under appropriate State law.

(5) In addition to any other sanctions or penalty imposed for the offense under this section, Ohio R.C. Chapter 2929 or any other provision of the Ohio Revised Code or this code, whoever violates division (a), (b), (c), or (d) of this section is responsible for the payment of all of the following:

A. Any veterinary bill or bill for medication incurred as a result of the violation by the Police Department regarding a violation of division (a) or (b) of this section or by the blind, deaf or hearing impaired, or mobility impaired person assisted or served by the assistance dog regarding a violation of division (c) or (d) of this section;

B. The cost of any damaged equipment that results from the violation;

C. If the violation did not result in the death of the police dog or horse or the assistance dog that was the subject of the violation and if, as a result of that dog or horse being the subject of the violation, the dog or horse needs further training or retraining to be able to continue in the capacity of a police dog or horse or an assistance dog, the cost of any further training or retraining of that dog or horse by a law enforcement officer or by the blind, deaf or hearing impaired, or mobility impaired person assisted or served by the assistance dog;

D. If the violation resulted in the death of the assistance dog that was the subject of the violation or resulted in serious physical harm to the police dog or horse or the assistance dog that was the subject of the violation to the extent that the dog or horse needs to be replaced on either a temporary or a permanent basis, the cost of replacing that dog or horse and of any further training of a new police dog or horse or a new assistance dog by a law enforcement officer or by the blind, deaf or hearing impaired, or mobility impaired person assisted or served by the assistance dog, which replacement or training is required because of the death of or the serious physical harm to the dog or horse that was the subject of the violation.

(f) This section does not apply to a licensed veterinarian whose conduct is in accordance with Ohio R.C. Chapter 4741.

(g) This section only applies to an offender who knows or should know at the time of the violation that the police dog or horse or assistance dog that is the subject of a violation under this section is a police dog or horse or assistance dog.

(h) For the purpose of this section, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

(1) "Assistance dog", "blind" and "mobility impaired person" have the same meaning as in Ohio R.C. 955.011.

(2) "Physical harm" means any injury, illness, or other psychological impairment, regardless of its gravity or duration.

(3) "Police dog or horse" means a dog or horse that has been trained and may be used to assist law enforcement officers in the performance of their official duties.

(4) "Serious physical harm" means any of the following:

A. Any physical harm that carries a substantial risk of death.

B. Any physical harm that causes permanent maiming or that involves some temporary, substantial maiming.

C. Any physical harm that causes acute pain of a duration that results in substantial suffering.

(ORC 2921.321)

618.22 ANIMAL FEED NUISANCE PREVENTION.

(a) This section prohibits leaving animal feed and/or pet food outside in open areas or in enclosed areas such as, but not limited to, open garages, car ports, tool sheds, lean-tos, or under open porches for pets, strays and wild animals. However, food may be left out during daylight hours, provided that the feeding area must be removed and cleaned each day.

(b) Any matter which attracts animals and is capable of consumption by either domestic and/or wild animals shall meet the definition of "food," "pet food," and/or "animal feed" as it is used in this section. Bird feeders and squirrel feeders are exempt from this section.

(c) Only domestic animals kept in yard pens which enclose an area on all sides shall be permitted to have food left unattended for more than eight hours. In such instances, there shall be permitted to be only enough food to feed the number of animals kept in the pen.

(d) (1) It shall be unlawful for any person to leave food unattended as prohibited by this section. Any person who violates any provision of this section is guilty of a minor misdemeanor. For each violation of this section, the offending party shall be fined fifty dollars (\$50.00). Each day on which a violation of any provision of this section occurs is a separate and distinct offense and shall be punishable as such notwithstanding the fact that the same food is at issue.

(2) Prior to prosecution for any offense under this section, the offender shall be given a written warning for the first occasion where a violation is reported and then observed by an enforcement officer. The written warning shall be addressed to the owner of the property where the food is found.

(3) A person may be found to have violated this section should that individual be the registered owner of either the pet being kept

at the particular residence or the owner of the property the pet is found upon.

(e) This section is to be enforced by personnel of the Summit County Health District and/or the Summit County Division of Animal Control and/or the Barberton Police Department and/or the Barberton Building Department.

(Ord. 226-2012. Passed 12-17-12.)

618.23 RESTRICTIONS ON DOG OWNERSHIP FOR CERTAIN CONVICTED FELONS.

(a) No person who is convicted of or pleads guilty to a felony offense of violence committed on or after May 22, 2012 or a felony violation of any provision of Ohio R.C. Chapter 959, Chapter 2923 or Chapter 2925 committed on or after May 22, 2012 shall knowingly own, possess, have custody of, or reside in a residence with either of the following for a period of three years commencing either upon the date of release of the person from any period of incarceration imposed for the offense or violation or, if the person is not incarcerated for the offense or violation, upon the date of the person's final release from the other sanctions imposed for the offense or violation:

(1) An unspayed or unneutered dog older than 12 weeks of age;

(2) Any dog that has been determined to be a dangerous dog under Ohio R.C. Chapter 955 or any substantially equivalent municipal ordinance.

(b) A person described in division (a) of this section shall microchip for permanent identification any dog owned, possessed by, or in the custody of the person.

(c) (1) Division (a) of this section does not apply to any person who is confined in a correctional institution of the Department of Rehabilitation and Correction.

(2) Division (a) of this section does not apply to any person with respect to any dog that the person owned, possessed, had custody of, or resided in a residence with prior to May 22, 2012.

(ORC 955.54)

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

(ORC 955.99(O))

618.24 FEEDING OF WATERFOWL PROHIBITED.

(a) "Waterfowl" is any bird that frequents the water, or lives about rivers, lakes, or other bodies of water; an aquatic fowl, including but not limited to ducks, geese, swans, herons, and egrets.

(b) Ohio Department of Natural Resources strongly recommends against feeding waterfowl including but limited to Canadian geese due to the following negative effects of feeding:

(1) Lack of balanced diet may cause wing deformity in goslings, hindering the bird's flight ability;

(2) Feeding causes overcrowding allowing diseases such as botulism and cholera to spread easily and possibly result in massive waterfowl die-offs;

(3) Geese lose their fear of humans and become aggressive;

(4) Feeding reduces the need for geese to migrate so they stay in an area longer and create more problems.

(c) Based upon this recommendation the City Parks and Recreation Commission will enact the following rules and regulations regarding feeding of waterfowl on park land:

(1) No person shall purposely or knowingly, with intent to provide such food, feed, bait, or in any manner provide access to food to any waterfowl within the corporate limits of the City of Barberton, on park land. This section shall not apply to agents of the City feeding animals kept and managed by the Barberton Parks and Recreation Commission and/or the City.

(2) No person shall purposely or knowingly leave or store any refuse, garbage, food product, pet food, forage product or

supplement, salt, seed, birdseed, fruit, or grain in a manner that would constitute an attractant to any waterfowl on City park property.

(3) Nothing in this section shall prohibit the actions of any agent of the State of Ohio lawfully engaged in a wildlife or waterfowl management program.

(4) Nothing in this section shall prohibit the actions of an agent of the City authorized to implement an alternative control method set forth in any approved community based goose management plan and possessing a special good management permit issued by the Ohio Department of Natural Resources.

(d) Penalty. Any person violating any provision of this section shall be liable for a fine according to the following schedule:

(1) Effective January 1, 2016 - December 31, 2016. An informational citation will be issued to a person violating this section which will site the reason of the policy and the penalty for violating the policy beginning in 2017.

(2) Effective January 1, 2017. The penalty for violation of this section shall be seventy-five dollars (\$75.00) for the first violation, one hundred fifty dollars (\$150.00) for the second infraction committed within one calendar year and three hundred dollars (\$300.00) for the third infraction committed within one calendar year.

(Ord. 183-2015. Passed 12-14-15.)