

505.08 NUISANCE CONDITIONS PROHIBITED.

(a) No person shall keep or harbor any animal in the City so as to permit or suffer to be permitted the commission or evidence of a nuisance as hereinafter defined. There is hereby created a presumption whereby any animal which commits, creates or becomes a nuisance as described in subsection (b) below is presumed to have done so with the permission of the owner or person in charge or control of such animal.

(b) Any animal which disturbs the peace and quiet, endangers the repose or health of any person or persons, or causes property damage, in any one of the following manners is hereby declared to be a nuisance:

(1) By frequently or habitually making loud and offensive noises, including, but not limited to barking, howling, hissing, crying, screaming, screeching, or yelping;

(2) By frequently or habitually scratching or digging in, or urinating upon, any lawn, tree, shrub, plant, building or any other property, public or private, other than the property of the owner or person in charge or control of such animal, thereby causing damage to said lawn, tree, shrub, plant or building;

(3) On any occasion, when the animal is found on the property of another or upon public property, and is, in an aggressive manner, threatening to attack, or has attacked, any human being;

(4) By the accumulation of animal waste so as to create noxious or offensive odors or unsanitary conditions that cause a risk to the health, safety or public welfare; or

(5) By defecating upon any lawn, tree, shrub, plant, building or any other public or private property, other than the property of the owner or person in charge or control of such animal.

(c) On complaint of any person or police officer that an animal, harbored or kept in the City, has disturbed the peace and quiet, endangered the repose or health of any person or persons, or damaged property in any one of the manners specified above, written notice therefore by the Animal Warden shall be given to the person harboring or keeping such animal. Failure to abate the nuisance complained of shall subject the person to the penalty provided for in this section.

(d) In the case of defecation, noxious or offensive odors or unsanitary conditions, wherein the owner or person in charge or control of such animal, removes all feces deposited by such animal and disposes of the same in a sanitary manner, such nuisance shall be considered abated.

(e) If upon complaint by the person or police officer as provided in paragraph (c) above, the owner, harborer or keeper of the animal cannot be immediately determined, the Animal Warden may seize and impound the animal. Thereafter, the animal shall be kept and disposed of as provided for in Section 505.02.

(f) Whoever violates this section shall be guilty of a minor misdemeanor for a first offense; for each subsequent offense such person shall be guilty of a misdemeanor of the fourth degree. (Ord. 2004-130. Passed 9-21-04.)

505.081 MATERIAL TO REMOVE DOG FECES.

(a) No person shall walk, or otherwise have in his or her custody or control, any dog upon any public property, including streets, sidewalks, public parks, parkways and alleys, unless the person has in his or her possession, and in plain view, readily usable materials or implements sufficient to remove and to dispose of lawfully any fecal matter that may be deposited on the ground by the dog.

(b) Any person violating this section shall be guilty of a minor misdemeanor, which shall be punishable by a fine of fifty dollars per violation.
(Ord. 2004-130. Passed 9-21-04.)

05.16 VICIOUS AND DANGEROUS ANIMALS.

(a) Definitions. The following definitions shall apply in the interpretation and enforcement of this section:

(1) "Animal Warden" means the Animal Warden of the City or his authorized representative.

(2) "Vicious animal" means any animal which represents a danger to any person(s), or to any other domestic animal, for any of the following reasons:

A. Any animal that kills or causes serious physical harm (as defined in Ohio R.C. 2901.01(E)) to any person or domestic animal.

B. Any animal which bites or causes physical harm to any person or domestic animal while off the premises of the owner on more than one occasion.

C. Any pit bull, canary dog or American bull dog, as defined below.

D. Any wolf-hybrid.

E. "Vicious animal" does not include a police dog that has inflicted any harm specified in this subsection if such police dog is being used to assist one or more law enforcement officers in the performance of their official duties.

(3) "Dangerous animal" means any animal, but not a "vicious animal" as defined above, which has either:

A. Bitten any person, or

B. Without provocation, chased or approached in either a menacing fashion or in an apparent attitude of attack, or otherwise acted in a manner which substantially endangered the physical health and safety of, any person, while the animal was not physically confined in a locked pen which has a top, a locked fence yard, or other

locked enclosure which has a top.

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

(5) "Menacing fashion" means actions by an animal that would cause a person of ordinary sensibilities to reasonably believe that the animal intended to cause serious physical harm to that person and was capable of causing serious physical harm.

(6) "Pit bull" means any Staffordshire Bull Terrier, American Pit Bull Terriers, or American Staffordshire Terrier breed of dog, or any mixed breed of dog which contains, as an element of its breeding, the breed of Staffordshire Bull Terrier, American Pit Bull Terrier, or American Staffordshire Terrier as to be identifiable as partially of the breed of Staffordshire Bull Terrier, American Pit Bull Terrier, or American Staffordshire Terrier.

(7) "Canary Dog" means any Canary Dog or Perro de Presa Canario, or any mixed breed of dog which contains, as an element of its breeding, the breed of Canary Dog or Perro de Presa Canario as to be identifiable as partially of the breed of Canary Dog or Perro de Presa Canario.

(8) "American Bulldog" means any American Bulldog or Old Country Bulldog, or any mixed breed of dog which contains, as an element of its breeding, the breed of American Bulldog or Old Country Bulldog as to be identifiable as partially of the breed of American Bulldog or Old Country Bulldog.

(b) Dangerous Animals. The Animal Warden may enter an order declaring any animal to be a "dangerous animal" which qualifies as defined in subsection (a)(3) hereof.

(1) The Animal Warden shall cause a copy of his order served upon the owner of any animal declared to be a dangerous animal, notifying them of such designation. The order shall further specify the reasonable steps to be taken to properly house, confine, and control the animal.

(2) Any owner of a declared dangerous animal may appeal the Animal Warden's orders and the conditions imposed by the order to the Director of Public Service within five days of being served with such order.

(c) Notification Procedure for "Vicious Animals". The Animal Warden shall cause written notice to be served upon the owner of any suspected "vicious animal," notifying them of the nature of the complaint against the animal and the time, date, and location of the Determination Hearing required by subsection (d) hereof. Such notice shall further specify the appropriate means of confinement for the animal pending the issuance of findings from the Determination Hearing. The place of confinement may be, if suitable in the opinion of the Animal Warden, the premises of the owner, a veterinary hospital, a boarding kennel, the City Kennel, or an animal shelter approved by the Animal Warden. The Animal Warden may cause the animal to be removed from the premises of the owner, harborer or keeper, and placed in a suitable place of confinement without the permission of the owner. All animals held in confinement shall be boarded and cared for at the expense of the owner. If an animal is kept at the City Kennel, charges shall be assessed against the owner in accordance with the provisions of Section 505.02 and 505.14.

(d) Determination Hearing for “Vicious Animals”. A Determination Hearing shall be conducted by the Animal Warden whenever there is a cause to believe that an animal may be a “vicious animal” as described in subsection (a)(2) hereof.

(1) The Determination Hearing shall be conducted within ten days after serving notice to the owner.

(2) The Animal Warden shall determine whether to declare the animal to be a “vicious animal” based upon evidence and testimony presented at the time of the hearing by the owner, witnesses to any incident(s) which may be considered germane to such determination, the Animal Warden, City personnel, police, or any other person possessing information pertinent to such determination.

(3) If the Animal Warden determines that the animal is a “vicious animal” he may order the following:

A. The animal may be ordered destroyed by a suitable and humane method at the expense of the owner.

B. The animal may be ordered confined permanently under any conditions which the Animal Warden determines sufficient to protect the public and/or other domestic animals.

(4) The Animal Warden shall either dismiss the complaint or enter an order declaring the animal to be a “vicious animal” within three days after the completion of the Determination Hearing.

(5) The owner shall have the right to appeal the Animal Warden’s order to the Director of Public Service within five days of being served with such order.

(e) Appeal to the Director of Public Service. Any order of the Animal Warden appealed to the Director of Public Service pursuant to subsections (b)(2) or (d)(5) hereof, shall be heard by the Director within thirty days of the date of the filing of the appeal with the Director. Filing of such appeal shall not stay any notice or order of the Animal Warden issued pursuant to this section. The Director shall adopt rules and procedures for the purpose of conducting such appeals.

(f) Registration of Pit Bulls, Canary Dogs, American Bulldogs, Wolf-Hybrids and Vicious Animals. No person shall own, harbor, care for, or control a pit bull, wolf-hybrid or other animal defined above as a “vicious animal”, within the City until such animal has been first registered with the Animal Warden. Persons presently owning, harboring, or caring for a Pit Bull, Canary Dog, American Bulldog, Wolf-Hybrid or vicious animal in the City shall register such animal within thirty (30) days following the effective date of this section. The fee for such initial registration shall be fifteen dollars (\$15.00) and registration must be renewed thereafter annually at the same fee amount. The Animal Warden shall at the time of registration arrange to inspect the animal and shall thereafter impose terms of confinement and other appropriate conditions to minimize the risk of danger to the community posed by the animal. Such conditions shall be imposed after the owner or other person having control of the animal has been afforded an opportunity to be heard pursuant to paragraphs (d) and (e) above.

(g) Insurance Requirement. Any person owning, harboring or having the care or

control of any Pit Bull, Canary Dog, American Bulldog, Wolf-Hybrid or vicious animal shall maintain a policy of liability insurance providing coverage in each occurrence in an amount not less than one hundred thousand dollars (\$100,000) and insuring such person against any claim, loss, damage or injury to persons, domestic animals or property resulting from the acts of the animal. Such person shall produce evidence of such insurance at the time of registering the animal with the Animal Warden and upon the request of any law enforcement officer.

(h) Posting of Sign Requirement. Any person owning, harboring or having the care or control of any Pit Bull, Canary Dog, American Bulldog, Wolf-Hybrid or vicious animal must post on the premises, in a conspicuous place and visible from the right of way, a sign approved by the Animal Warden warning visitors of the danger posed by the animal on the premises. The sign shall be maintained on the premises for so long as the Pit Bull, Canary Dog, American Bulldog, Wolf-Hybrid or vicious animal remains on the premises.

(i) Prohibitions. No person shall:

(1) Sell or permanently transfer:

A. A declared dangerous animal without first notifying in writing the Animal Warden of his intent,

B. A “vicious animal” without first obtaining the written permission of the Animal Warden.

(2) Fail to comply with or otherwise violate:

A. Any order of the Animal Warden declaring any animal to be a dangerous animal issued pursuant to subsection (b) hereof;

B. Any written notice regarding any suspected vicious animal issued by the Animal Warden pursuant to subsection (c) hereof;

C. Any order of the Animal Warden declaring any animal a vicious animal issued pursuant to subsection (d)(3) hereof.

(3) Own, keep, possess, harbor, maintain, or have the care, custody or control of a Pit Bull, Canary Dog, American Bulldog, Wolf-Hybrid or vicious animal, and shall be strictly liable, if such animal, with respect to any of the following, is at any time found to:

A. Be at large within the City unless securely attached upon a leash held in the hand of a person of suitable age and size, and in a manner which continuously controls the dog.

B. Snap at or attempt to bite or attempt to cause physical harm to any other person, domestic animal or feline, while the dog is off the premises of the owner, or while on premises which are not exclusively controlled by the owner.

C. Cause physical harm to the property of another while the dog is off the premises of the owner, or while on premises which are not exclusively controlled by the owner.

D. Bite or otherwise cause physical harm to any person, domestic animal, or feline, while the dog is off the premises of the owner, or while on premises which are not exclusively controlled by the

owner.

E. Bite or otherwise cause physical harm to mail carriers, utility workers, City of North Olmsted employees, delivery persons, or any police or emergency persons while the dog is on the premises of the owner or the premises under the control of the owner.

F. Cause serious physical harm to any person, unless the dog:

1. Was being teased, tormented or abused by a person, or
2. Was coming to the aid or defense of a person who was not engaged in illegal or criminal activity and who was not using the dog as a means to carry out illegal or criminal activity;
3. Caused serious physical harm to any person while such person was committing or attempting to commit a criminal trespass or other criminal offense on the premises of the owner, keeper or harbinger of the dog.

(4) It shall be an affirmative defense to a violation of paragraph (i)(3) above that the animal was:

- A. Securely confined in an automobile or cage which was adequately ventilated; or
- B. Being exhibited at a public dog show, zoo, museum or public institution.

(5) No person shall own, keep, possess, harbor, maintain or have the care, custody or control of a Pit Bull, Canary Dog, American Bulldog, Wolf-Hybrid or vicious animal within the City after such animal has been ordered by the Animal Warden or a court of competent jurisdiction to be banned from the City or destroyed.

(6) No parent or other guardian shall permit or negligently suffer a minor under the age of seventeen (17) years to walk a Pit Bull, Canary Dog, American Bulldog, Wolf-Hybrid or vicious animal, with a leash or otherwise, while off the premises of the person who keeps, possesses, harbors, maintains, or has the care, custody or control of the said animal.