

505.16 NUISANCE, VICIOUS AND DANGEROUS DOGS; REGISTRATION.

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

- (1) "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.
- (2) "Animal Control Officer" or "ACO" is the employee authorized to render determinations and to otherwise enforce the provisions of this code and Revised Code Chapter 955. A person designated by the Mayor in the absence or unavailability of an Animal Control Officer shall have the same authority as the Animal Control Officer.
- (3) "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.
- (4) "Dangerous dog" shall have the definition as set forth in Revised Code 955.11.
- (5) "Menacing fashion" shall have the definition as set forth in Revised Code 955.11.
- (6) "Nuisance dog" shall have the definition as set forth in Revised Code 955.11.
- (7) "Owner" means any person owning, keeping, possessing, harboring, maintaining, or having the care, custody or control of an animal.
- (8) "Pit bull" means any Staffordshire Bull Terrier, American Pit Bull Terrier, 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,
- (9) "Physical harm to persons," "physical harm to property," "serious harm to persons" and "serious physical harm to property" shall have the definition as set forth in Revised Code 2901.01.
- (10) "Vicious dog" shall have the definition as set forth in Revised Code 955.11.

(b) Nuisance, Vicious and/or Dangerous Dog.

- (1) Whenever a complaint is made to the City or the ACO observes the presence of a nuisance, dangerous or vicious dog within the City, the ACO, with assistance from the Division of Police if necessary, shall promptly inspect or cause an inspection of the dog and premises on which it is alleged that such animal is being kept. The ACO or person designated by the Mayor in his absence or unavailability may determine and designate a dog to be a nuisance, dangerous, or vicious dog.
- (2) Upon reasonable cause to believe that a dog in the City is a nuisance, dangerous or vicious dog, the ACO or designated individual shall determine the individual, firm or corporation who from the records in the Cuyahoga County Office of the Fiscal Officer appears to be the owner of the dog and the titled owner of the property upon which the dog is kept, and shall cause written notice to be served on such owners. Notice shall be served in person or by certified mail with a return receipt requested. If certified service of such written notice is unable to be perfected, then the

ACO or designated individual shall cause a copy of the aforesaid notice to be served by ordinary mail which shall be deemed complete upon mailing and also left with the individual, if any, in possession of the premises on which the dog is kept, or if there are no individuals in possession of the premises, he shall cause a copy of the notice to be posted on the premises.

- (3) The notice required by this section hereof shall state, in brief, the ACO's determination and designation with respect to the nuisance, dangerous or vicious nature of the dog. The notice shall include instructions for filing a request for hearing in the County in which the dog's owner, keeper or harbinger resides. If the dog is a vicious dog, the notice shall also serve as an order for the destruction of said vicious dog if so indicated. The notice shall further state that the owner must comply with the requirements of this Chapter within seven (7) days after service of the notice.
- (4) Once a dog is deemed to be a nuisance, dangerous or vicious, the ACO shall report the designation to the Cuyahoga County Animal Warden.

(c) Appeal Procedure

- (1) In accordance with Revised Code 955.222, the owner of a dog who has been served with a notice pursuant to Section 505.18(b)(2) may, within ten (10) days after receipt of such notice, request a hearing regarding the determination. The request for a hearing shall be in writing and shall be filed with the municipal court that has territorial jurisdiction over the residence of the dog's owner, keeper, or harbinger. At the hearing, the person who designated the dog as a nuisance dog, dangerous dog, or vicious dog has the burden of proving, by clear and convincing evidence, that the dog is a nuisance dog, dangerous dog, or vicious dog. The owner or keeper of the dog or the person who designated the dog as a nuisance dog, dangerous dog, or vicious dog may appeal the court's final determination as in any other case filed in that court.
- (2) A court, upon motion of an owner or keeper or an attorney representing the owner or keeper may order that the dog designated as a nuisance dog, dangerous dog, or vicious dog be held in the possession of the owner or keeper until the court makes a final determination under this section or during the pendency of an appeal, as applicable. Until the court makes a final determination and during the pendency of any appeal, the dog shall be confined or restrained in accordance with the provisions of Revised Code 955.22(D) that apply to dangerous dogs regardless of whether the dog has been designated as a vicious dog or a nuisance dog rather than a dangerous dog. The owner or keeper of the dog shall not be required to comply with any other requirements established in the Revised Code that concern a nuisance dog, dangerous dog, or vicious dog, as applicable, until the court makes a final determination and during the pendency of any appeal.

(d) Disposition of Vicious Dogs.

The ACO may upon investigation or observation of any dog found to be running at large in the City, seize and impound such dog on sight. Further, in conjunction with and immediately upon issuance of notice of designation of any dog as a nuisance, vicious or dangerous dog

according to the authority provided in Section 505.16(b), such dog shall be immediately seized and impounded by the ACO, whenever possible, subject however to judicial review pursuant to Section 505.16(c)(2) and Revised Code 955.222(C).

(e) Registration of Pit Bulls, Canary Dogs, American Bulldogs, Wolf-Hybrids and Vicious, Dangerous and Nuisance Dogs. No person shall own, harbor, care for, or control a Pit Bull, Canary Dog, American Bulldog, Wolf-Hybrid or vicious or dangerous dog as determined by Section 505.16 of this Code within the City until such animal has been first registered with the office of Director of Public Safety. Persons presently owning, harboring, or caring for a Pit Bull, Canary Dog, American Bulldog, Wolf-Hybrid or nuisance, vicious or dangerous dogs 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 Fifty Dollars (\$50.00) and registration must be renewed thereafter annually at the amount established herein, or as amended from time to time.

(f) Insurance Requirement. Any person owning, harboring or having the care or control of any Pit Bull, Canary Dog, American Bulldog, Wolf-Hybrid or nuisance, vicious or dangerous dog as determined by Section 505.16 of this Code shall maintain a policy of liability insurance providing coverage in each occurrence in an amount not less than one hundred thousand dollars (\$100,000.00) 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 office of Director of Public Safety and upon the request of any law enforcement officer.

(g) Posting of Sign and Containment Requirements.

(1) Any person owning, harboring or having the care or control of any Pit Bull, Canary Dog, American Bulldog, Wolf-Hybrid or nuisance, vicious or dangerous dog as determined by Section 505.16 of this Code must post on the premises, in a conspicuous place and visible from the right of way, a sign approved by the office of Director of Public Safety 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 nuisance, vicious or dangerous dog remains on the premises.

(2) Any person owning, harboring or having the care, custody or control of a Pit Bull, Canary Dog, American Bulldog, Wolf-Hybrid or nuisance, vicious or dangerous dog (collectively “animal” for this section) within the City, on public or private property, shall contain such animal in strict compliance with the following:

- A. When the animal is on the premises of the owner, keeper or harbinger, securely confine it at all times in either a structure, a locked pen that has a top, a securely and well maintained locked and fenced yard area with minimum fence height of six feet, or other locked enclosure that has a top.
- B. When the animal is off the premises of the owner, keeper or harbinger, keep that animal on a chain-link leash or tether that is not more than six feet in length and, at all times, have that leash or tether controlled by a person who is of reasonably suitable age and discretion to control the animal.

(h) Prohibitions. No person shall:

(1) Sell or permanently transfer a declared nuisance, dangerous or vicious dog or a Pit Bull, Canary Dog, American Bulldog or Wolf-Hybrid without

notifying in writing the office of Director of Public Safety of his intent. The notice shall include the name, address and telephone number of the person proposed to receive possession of the dog / animal and, if not the same, the proposed location where the dog shall be harbored after transfer.

- (2) Fail to comply with or otherwise violate any order or determination declaring any dog to be a nuisance, vicious or dangerous dog issued pursuant to Section 505.16 of this Code.
- (3) Own, keep, possess, harbor, maintain, or have the care, custody or control of a Pit Bull, Canary Dog, American Bulldog, Wolf-Hybrid or determined nuisance, vicious dog or dangerous dog, 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 or property while the dog or animal 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 or property 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 harborer of the dog.
- (4) It shall be an affirmative defense to a violation of paragraph (f)(3) above that the animal was:
 1. Securely confined in an automobile or cage which was adequately ventilated; or
 2. 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 nuisance, dangerous or vicious dog within the City after such animal has been ordered by 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 nuisance, dangerous 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.
- (7) 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 nuisance, vicious or dangerous dog within the City, on public or private property, unless or until all of the registration, insurance, signage, containment and other requirements of this Section have been fully satisfied, documented, posted, installed, or otherwise established.

(i) Penalties.

- (1) A violation of any of the provisions of this section shall constitute a first degree misdemeanor. In addition to imprisonment and fines, any person convicted of a violation of a provision of paragraph (g)(3) above shall be ordered by the court to fully reimburse any victim who, as a direct and proximate result of the said violation, incurred medical or other out-of-pocket expenses on behalf of himself, any member of his family, or any property, including a family pet.
- (2) In addition to the foregoing criminal penalties, the Director of Law, following a violation of any provision of this section and upon the written recommendation of the Director of Public Safety or the Mayor, is authorized to apply to a court of competent jurisdiction to obtain an order seizing such animal, banning such animal from the City, having such animal destroyed, or other appropriate order to protect the health and safety of residents of North Olmsted.
- (3) In addition, the court may order the offender to personally supervise the nuisance, vicious or dangerous dog that the offender owns, keeps, or harbors, to cause that dog to complete dog obedience training, or to do both, and the court may order the offender to obtain liability insurance in excess of the amounts required herein. The court, in the alternative, may order the nuisance, vicious or dangerous animal to be humanely destroyed by a licensed veterinarian, the county dog warden, or the county humane society.