

SUBSTITUTE ORDINANCE NO. 40-88

By: Mr. Offenbergl

An Ordinance to amend Section 618.16 Dangerous and Vicious Animals of the Codified Ordinances of the City of Bexley with respect to the keeping of dangerous and vicious animals within the City.

WHEREAS, the City is a densely populated residential community with a large number of children and elderly residents; and

WHEREAS, owners of animals within the City are responsible for protecting other persons against the risk of physical harm from their animals; and

WHEREAS, the keeping of dangerous and vicious animals within the City poses a substantial risk of physical harm to residents, particularly children and elderly persons; and

WHEREAS, such danger, including the special risks presented by dogs commonly known as pit bulls, was recognized by the Ohio General Assembly by the enactment of Substitute House Bill No. 352 which became effective on July 10, 1987; and

WHEREAS, according to testimony before the Civil and Commercial Law Committee of the Ohio House of Representatives, 15 Ohioans were killed in dog attacks in 1986 and, as reported in the July 12, 1987 edition of The New York Times, the Humane Society of the United States has stated that since July 1983, pit bulls which account for about 1% of all dogs in the United States were responsible for 20 of the 28 deaths after dog bites in the nation, including all five deaths in the first six months of 1987; and

WHEREAS, in light of the documented threat posed by dangerous and vicious animals, including dogs commonly known as pit bulls, and the residential character of the City, this Council has determined that additional controls upon the keeping of dangerous animals and a prohibition against the keeping of vicious animals within the City are necessary to protect the health and safety of residents of the City;

NOW THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE CITY OF BEXLEY, OHIO:

Section 1: That Section 618.16 of the Codified Ordinances is hereby amended as follows:

618.16 DANGEROUS AND VICIOUS ANIMALS.

(a) No person shall keep, maintain or harbor a dog of fierce, dangerous and vicious propensities in the City.

(b) Proof that such a dog has, without adequate or sufficient provocation, attacked, assaulted, bitten and caused serious physical harm to any person requiring medical attention, that the dog is of such fierce and menacing character and disposition as to create a fear for safety among average and reasonable persons; and that there is the probability that such attacks would reoccur, shall be prima-facie evidence of the fact that such animal is vicious and dangerous.

(c) The owner, possessor or person responsible for any dog which, without sufficient or adequate provocation, attacks, assaults, bites and causes serious physical harm to any person, requiring medical attention, shall be held strictly responsible for the conduct of such dog and shall, in addition, be guilty of a misdemeanor of the fourth degree.

(d) Should the owner, possessor or person responsible for any dog have prior knowledge of the dog's vicious and dangerous propensities, as defined in subsection (b) hereof, then any violation of subsection (c) hereof by such owner, possessor or person responsible, shall be treated as a misdemeanor of the first degree.

(a) AS USED IN THIS SECTION:

(1) "DANGEROUS ANIMAL" MEANS ANY ANIMAL, OTHER THAN A POLICE DOG, THAT:

(i) WITHOUT PROVOCATION, CHASES OR APPROACHES IN A MENACING FASHION ANY PERSON WHILE ON OR OFF THE PREMISES OF THE OWNER OR ANY DOMESTIC ANIMAL WHICH IS THE PROPERTY OF ANOTHER WHILE OFF THE PREMISES OF THE OWNER; OR

(ii) WITHOUT PROVOCATION, BITES, ATTEMPTS TO BITE OR CAUSES PHYSICAL HARM TO ANY PERSON WHILE ON OR OFF THE PREMISES OF THE OWNER OR ANY DOMESTIC ANIMAL WHICH IS THE PROPERTY OF ANOTHER WHILE OFF THE PREMISES OF THE OWNER.

(2) "MENACING FASHION" MEANS APPROACHING OR CHASING A PERSON OR ANY DOMESTIC ANIMAL WHICH IS THE PROPERTY OF ANOTHER IN A MANNER WHICH WOULD CAUSE A REASONABLE PERSON TO BELIEVE THAT THE ANIMAL WILL CAUSE SERIOUS PHYSICAL HARM TO SUCH PERSON OR OTHER ANIMAL.

(3) "OWNER" SHALL MEAN ANY PERSON OWNING, KEEPING, POSSESSING, HARBORING, MAINTAINING, OR HAVING THE CARE, CUSTODY OR CONTROL OF AN ANIMAL.

(4) "POLICE DOG" MEANS A DOG THAT HAS BEEN TRAINED, AND IS BEING USED, TO ASSIST A LAW ENFORCEMENT OFFICER IN THE PERFORMANCE OF HIS OFFICIAL DUTIES.

(5) "VICIOUS ANIMAL" MEANS:

(i) ANY ANIMAL, OTHER THAN A POLICE DOG, THAT WITHOUT PROVOCATION KILLS OR CAUSES SERIOUS PHYSICAL HARM TO ANY PERSON OR KILLS ANY DOMESTIC ANIMAL WHICH IS THE PROPERTY OF ANOTHER; OR

(ii) ANY ANIMAL, WHETHER WILD OR DOMESTIC, WHICH BY VIRTUE OF ITS SPECIES, PHYSICAL ATTRIBUTES, TEMPERAMENT AND/OR OTHER CHARACTERISTICS PRESENTS A SUBSTANTIAL RISK OF SERIOUS PHYSICAL HARM TO PERSONS. ANY DOG WHICH BELONGS TO, OR HAS THE APPEARANCE AND CHARACTERISTICS OF BEING PREDOMINANTLY OF THE BREEDS OF DOGS KNOWN AS STAFFORDSHIRE BULL TERRIER, AMERICAN PIT BULL TERRIER, AMERICAN STAFFORDSHIRE TERRIER, PIT BULL TERRIER AND ANY OTHER BREED OF DOG COMMONLY KNOWN AS PIT BULLS, PIT BULL DOGS OR PIT BULL TERRIERS, OR A COMBINATION OF THOSE BREEDS, SHALL BE PRESUMED TO BE A VICIOUS ANIMAL, UNLESS THE OWNER PROVES BY A PREPONDERANCE OF THE EVIDENCE THAT SAID DOG DOES NOT COME WITHIN THE FIRST SENTENCE OF THIS SUBSECTION.

(6) "WITHOUT PROVOCATION" MEANS THAT:

(i) THE ANIMAL IS NOT DEFENDING ITSELF AGAINST ANY PERSON WHO IS TORTURING, BEATING OR OTHERWISE PHYSICALLY ABUSING SUCH ANIMAL;

(ii) THE ANIMAL IS NOT DEFENDING ITSELF AGAINST ANOTHER ANIMAL WHICH HAS ATTACKED OR APPROACHED IT

IN A MENACING FASHION;

(iii) THE ANIMAL IS NOT COMING TO THE AID OF A PERSON WHO IS BEING PHYSICALLY HARMED OR THREATENED WITH PHYSICAL HARM BY A PERSON OR OTHER ANIMAL OR WHO IS BEING APPROACHED BY ANOTHER ANIMAL IN A MENACING FASHION; OR

(iv) THE ANIMAL IS NOT CHASING, APPROACHING OR CAUSING OR ATTEMPTING TO CAUSE PHYSICAL HARM TO ANY PERSON WHO HAS ENTERED UPON THE PREMISES OF ANOTHER WITH THE INTENT OF COMMITTING A CRIME.

(7) TERMS NOT DEFINED HEREIN BUT DEFINED IN OHIO R.C. CHAPTER 2901 SHALL HAVE THE MEANINGS SET FORTH THEREIN.

(b) NO PERSON SHALL KNOWINGLY, RECKLESSLY OR NEGLIGENTLY POSSESS, KEEP, MAINTAIN, HARBOR OR HAVE CARE, CUSTODY OR CONTROL OF A VICIOUS ANIMAL WITHIN THE CITY.

(c) NO OWNER OF A DANGEROUS ANIMAL SHALL FAIL, WHILE SUCH ANIMAL IS ON THE PREMISES OF THE OWNER, TO KEEP SUCH ANIMAL SECURELY CONFINED IN A LOCKED PEN WHICH HAS A TOP OR KEEP SUCH ANIMAL TIED TO A CHAIN-LINK LEASE OR TETHER WITHIN A LOCKED FENCED YARD SO THAT SUCH ANIMAL IS AT ALL TIMES A DISTANCE OF AT LEAST SIX FEET FROM THE FENCE OR KEEP SUCH ANIMAL IN AN AREA INSIDE A BUILDING ON THE PREMISES OF THE OWNER WHICH SHALL BE SECURED SO THAT THE ANIMAL CANNOT APPROACH IN A MENACING FASHION ANY PERSON ENTERING UPON THE PREMISES OF THE OWNER FOR ANY PURPOSE, OTHER THAN THE COMMISSION OF A CRIME; PROVIDED THAT THIS SUBSECTION SHALL NOT APPLY TO THE USE OF A DOG WHILE IT IS LAWFULLY AND ACTUALLY ENGAGED IN HUNTING OR LEGITIMATE TRAINING FOR THE PURPOSE OF HUNTING WHILE ACCOMPANIED BY A LICENSED HUNTER.

(d) NO OWNER OF A DANGEROUS ANIMAL SHALL TAKE OR LEAD SUCH ANIMAL OFF THE PREMISES OF THE OWNER UNLESS THE ANIMAL WEARS A MUZZLE, WHICH IS DESIGNED AND WORN IN A MANNER TO PREVENT THE ANIMAL FROM CAUSING PHYSICAL HARM TO ANY PERSON OR OTHER ANIMAL, AND SUCH ANIMAL IS SECURELY ATTACHED TO A CHAIN-LINK LEASE OR TETHER OF NOT MORE THAN SIX FEET IN LENGTH, WHICH LEASE OR TETHER IS CONTROLLED BY A PERSON OF SUCH AGE, SIZE AND DISCRETION THAT HE IS CAPABLE OF PREVENTING THE ANIMAL FROM APPROACHING ANY PERSON OR OTHER ANIMAL IN A MENACING FASHION; PROVIDED THAT THIS SUBSECTION SHALL NOT APPLY TO THE USE OF A DOG WHILE IT IS LAWFULLY AND ACTUALLY ENGAGED IN HUNTING OR LEGITIMATE TRAINING FOR THE PURPOSE OF HUNTING WHILE ACCOMPANIED BY A LICENSED HUNTER.

(e) NO OWNER OF A VICIOUS OR DANGEROUS ANIMAL SHALL PERMIT SUCH ANIMAL TO RUN AT LARGE AS PROHIBITED BY SECTION 618.01.

(f) NO OWNER OF AN ANIMAL, KNOWING SUCH ANIMAL TO BE A DANGEROUS ANIMAL OR WITH RECKLESS DISREGARD OF THE DANGEROUS CHARACTER OF SUCH ANIMAL, SHALL FAIL TO DISPLAY PUBLICLY ON THE PROPERTY WHERE SUCH ANIMAL IS MAINTAINED OR HARBORED A SIGN WHICH NOTIFIES THE PUBLIC OF THE PRESENCE OF A DANGEROUS ANIMAL THEREON. SUCH SIGN SHALL STATE IN LETTERING AT LEAST TWO INCHES IN HEIGHT "BEWARE OF DANGEROUS ANIMAL" OR A SIMILAR STATEMENT PROVIDING REASONABLE NOTICE TO THE PUBLIC OF THE PRESENCE OF SUCH ANIMAL.

(g) NO OWNER OF A VICIOUS OR DANGEROUS ANIMAL SHALL FAIL TO REPORT TO THE CITY ANY INCIDENT BY WHICH ANY VICIOUS OR DANGEROUS ANIMAL HAS CAUSED PHYSICAL HARM TO ANY PERSON WITHIN TWENTY-FOUR (24) HOURS OF SUCH INCIDENT.

(h) NO OWNER OF A VICIOUS OR DANGEROUS ANIMAL SHALL FAIL TO REPORT TO THE CITY THE THEFT OR LOSS OF A VICIOUS OR DANGEROUS ANIMAL WITHIN TWELVE (12) HOURS OF THE DISCOVERY OF SUCH THEFT OR LOSS.

(i) NO OWNER OF A VICIOUS OR DANGEROUS ANIMAL SHALL REFUSE TO PERMIT THE INSPECTION BY THE CITY OF ANY SUCH ANIMAL OR THE PROPERTY WHERE IT IS MAINTAINED, KEPT OR HARBORED TO ENSURE COMPLIANCE WITH THIS SECTION NOR CONCEAL ANY SUCH ANIMAL FROM AN AGENT OF THE CITY ATTEMPTING SUCH INSPECTION.

(j) WHOEVER VIOLATES SUBSECTION (B), (C), (D), (E), (G), (H) OR (I) IS GUILTY OF A MISDEMEANOR OF THE FIRST DEGREE. WHOEVER VIOLATES SUBSECTION (F) IS GUILTY OF A MISDEMEANOR OF THE THIRD DEGREE ON A FIRST OFFENSE AND A MISDEMEANOR OF THE SECOND DEGREE ON EACH SUBSEQUENT OFFENSE. ADDITIONALLY, THE COURT MAY ORDER ANY VICIOUS ANIMAL TO BE HUMANELY DESTROYED BY A LICENSED VETERINARIAN, THE COUNTY DOG WARDEN OR THE COUNTY HUMANE SOCIETY.

(k) In addition to any criminal penalties WHICH MAY BE imposed against the owner UNDER THIS SECTION possessor or person responsible for keeping or maintaining a dangerous and vicious dog, an animal warden, police officer or other person authorized by the Mayor or the Chief of Police may SEIZE AND impound such A VICIOUS ANIMAL FOUND WITHIN THE CITY OR A DANGEROUS ANIMAL THAT IS NOT BEING KEPT, HARBORED OR MAINTAINED AS REQUIRED BY THIS SECTION PENDING THE DISPOSITION OF CHARGES AGAINST THE OWNER, IF KNOWN, OR FOR OBSERVATION IF THE OWNER IS NOT KNOWN. and hold it under observation for a period not to exceed ten days. Such dog ANIMAL shall not be released without the approval of the Mayor or the Chief of Police, on such conditions as MAY BE REASONABLY imposed by them TO ENSURE COMPLIANCE WITH THIS SECTION, and after the payment of all costs and charges incurred by the City for the impounding and maintenance of such dog ANIMAL. However, if any dangerous, fierce or vicious dog ANIMAL, found at large, cannot be safely SEIZED FOR IMPOUNDING, taken up and impounded, the police may use whatever force is necessary, INCLUDING KILLING THE ANIMAL, to protect the public safety and ensure the public peace AND SAFETY. ANY ANIMAL WHICH IS SEIZED OR IMPOUNDED BUT NOT REDEEMED MAY BE DISPOSED OF AS PROVIDED BY OHIO R.C. 955.16.

(f) Punishment for a violation of subsection (c) or (d) hereof shall be as provided in Section 698.02.

Section 2: That Section 618.16 as presently in effect is hereby repealed.

Section 3: That this Ordinance shall be in force from and after the earliest date allowed by law.

Passed: June 28, 1988

Albert Meyer
President of Council

ATTEST:

J. H. Hays
Clerk of Council

APPROVED: June 28, 1988.
David H. Madison
David H. Madison, Mayor

May 24, 1988 - 1st reading

June 14, 1988 - 2nd reading

June 28, 1988 - Substituted
Adopted