

ORDINANCE NO. 30 - 23

By: Sam Marcellino

An ordinance to amend section 618.16 of the Bexley Codified Ordinances to authorize the Animal Control Officer to designate an animal as dangerous or vicious pending the review and adjudication by the Bexley Mayor's Court of any criminal charges filed pursuant to the codified ordinances.

WHEREAS, section 618.16 of the City of Bexley Codified Ordinances regulates dangerous and vicious animals; and

WHEREAS, the Animal Control Officer has certain authority to pursue a designation that an animal is dangerous or vicious within the meaning of this ordinance; and

WHEREAS, in order to protect the safety and health of residents and visitors in the City of Bexley as well as other animals, the Animal Control Officer should be able to preliminarily designate an animal as dangerous or vicious based on specific facts and circumstances involving an incident with an animal and pending review of criminal charges by the Bexley Mayor's Court.

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

Section 1. That section 618.16 of the Bexley Codified Ordinances shall be amended as follows:

618.16 DANGEROUS AND VICIOUS ANIMALS.

(a) As used in this section:

(1) "Dangerous animal" means any animal, other than a police dog, that:

A. 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

B. 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" means 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:

A. 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

B. 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; or

C. Any dog which belongs to, or has the appearance and characteristics of being of the breed of dog 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.

(6) "Without provocation" means that:

A. The animal is not defending itself against any person who is torturing, beating or otherwise physically abusing such animal;

B. The animal is not defending itself against another animal which has attacked or approached it in a menacing fashion;

C. 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

D. 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.

(8) A dog which is classified as a "vicious animal" per Section 618.16(a)(5)C. shall not be classified as a "vicious animal", provided all of the following conditions are met:

A. The dog and owner continuously satisfy the requirements of the written Pit Bull Terrier Policy, which shall be created by the Animal Control Officer, approved of by the Chief of Police and the Safety Director prior to the effective date of this section, and subsequently revised as necessary. Such Pit Bull Terrier Policy shall include:

1. Specific registration requirements with the Bexley Animal Control Officer, including the payment of a \$45.00 registration fee, and allowing for the provision of temporary registration pending satisfaction of all other requirements.

2. Behavioral certification requirements.

3. Spay/Neuter requirements.

4. Proof of dog owner liability insurance coverage for canine-inflicted injuries.

5. Prohibition of invisible fencing as an "adequate fence" for the purposes of 618.01 (c) as it relates to breeds enumerated in 618.16(a)(5)C.

6. Provision of recognizable tags or collars providing evidence of registration or non-applicability of registration.

7. Additional requirements as deemed necessary and lawful.

B. This Section shall not be construed to prevent the classification of a dog which conforms to 618.16(a)(5)C. as a "vicious animal", in the event that the dog is determined to be vicious based upon criteria listed in Section 618.16(a)(5)A. and Section 618.16(a)(5)B.

C. No household shall own more than one dog which is classified as a "vicious animal" per Section 618.16(a)(5)C. and is otherwise in conformance with Section 618.16(a)(8).

(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 of at least 200 square feet of area with a height of at least six feet which has a top 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 leash or tether of not more than six feet in length, which leash 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 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 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 or 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) At the time the Animal Control Officer or designee issues a citation pursuant to section 618.16, they also may make a preliminary determination that the animal is dangerous or vicious within the meaning of section 618.16(a)(1) or (5) of this ordinance. Upon such

designation, the owner of the animal shall take the precautions and measures required by this ordinance as determined by the Animal Control Officer.

~~(k)~~(l) In addition to any criminal penalties which may be imposed against the owner under this section, an Animal Warden, police officer or other person authorized by the Mayor or the Chief of Police may seize and impound 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. Such 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 or animal. However, if any dangerous or vicious dog or animal, found at large cannot be safely seized for impounding, 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.

Section 2. That this Ordinance shall take effect and be in full force and after the earliest period allowed by law.

Passed: _____, 2023

Troy Markham, President of Council

Attest: _____
Matt McPeck, Clerk of Council

Approved: _____, 2023

Ord

Ben Kessler, Mayor

First Reading: August 22, 2023
Second Reading:
Third Reading: