

Introduced by _____ Councilman
 Seconded by _____ Councilman
 Form Approved ATG L Bz Director of Law
 PUBLICATION: I hereby certify that Ord. No. _____ was published
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 Sally Clemans, Clerk

AN ORDINANCE AMENDING SECTION 618.125 OF THE CODIFIED ORDINANCES OF THE CITY OF LIMA, OHIO, CONCERNING VICIOUS DOGS.

VOTE	1ST		2ND		3RD	
	Y	N	Y	N	Y	N
NEEPER						
McLEAN						
LOWE						
TEBBEN						
ADAMS						
GLENN						
TOWNSEND						
ADAMS						
NIXON			Absent			
TOTAL	80					

6/6/11

WHEREAS, Lima City Charter § 1 provides authority for Lima City Council to define, prohibit, abate, suppress and prevent all things detrimental to the health, comfort, safety, convenience and welfare of the inhabitants of the City, and all nuisances and causes thereof; and,

WHEREAS, Council hereby determines that vicious dogs within the community constitute a threat to public safety and are a public nuisance detrimental to the health, comfort, safety, convenience, and welfare of Lima citizens; and,

WHEREAS, Council desires to amend Section 618.125 of the Codified Ordinances of the City of Lima, Ohio to amend certain provisions regarding the custody and control of vicious dogs, in order to attempt to abate such as a public nuisance and to provide for the health, comfort, safety, convenience, and welfare of the inhabitants of and visitors to the City; and,

WHEREAS, the enactment of this ordinance is necessary in order to preserve the public peace, property, health and safety; to abate such nuisance condition; and to provide for the usual daily operation of the municipal government, and by reason thereof, this ordinance shall take effect and be in force forthwith upon its passage; Now, Therefore,

BE IT ORDAINED BY THE COUNCIL OF THE CITY OF LIMA, OHIO, WITH AT LEAST A MAJORITY OF THE MEMBERS ELECTED THERETO CONCURRING:

Section 1. That Section 618.125 of the Codified Ordinances of the City of Lima, Ohio is hereby amended as follows:

VICIOUS DOGS.

(A) The Lima City Council hereby determines that vicious dogs within the City constitute a threat to public safety and are a public nuisance detrimental to the health, comfort, safety, convenience, and welfare of Lima citizens and visitors to the City.

(B) This Section of the Codified Ordinances of Lima, Ohio is enacted by the Lima City Council as a legislative measure to define, prohibit, abate, suppress and prevent circumstances dealing with vicious dogs which are detrimental to the health, comfort, safety, convenience and welfare of the inhabitants of the City, and all nuisances and causes thereof.

(C) Definitions. As used in this section:

(1) "Vicious dog" means:

(a) Any dog with a propensity, tendency, or disposition to attack, bite, cause injury to, or which otherwise endangers the safety of, or which attempts to attack, bite, cause injury to, or endanger the safety of, a human being or domestic animal; or,

(b) Any dog which attacks, bites, causes injury to, or otherwise endangers the safety of, a human being or other domestic animal one or more times, with or without provocation; or,

(c) Any dog which belongs to a breed that is commonly known as a pit bull dog. The ownership, keeping, custody, control, or harboring of such a breed of dog shall be prima facie evidence of the ownership, keeping, custody, control, or harboring of a vicious dog.

(2) "Unconfined" shall mean the following:

(a) When a vicious dog is indoors, "unconfined" shall mean not being restrained in a manner that will prevent the dog from being able to come into physical contact with anyone lawfully in such premises, unless the person lawfully in such premises has specifically consented to such dog being unconfined while in his or her presence.

(b) When a vicious dog is outdoors, "unconfined" shall mean not being confined in a securely enclosed and locked pen or structure which prevents the dog from escaping therefrom. Such pen or structure must have secure sides and a secure top. If the pen or structure has no bottom secured to the sides, the sides must be embedded into the ground not less than one foot deep.

(D) No person who owns, harbors, or has the care, custody, or control of a vicious dog shall permit such dog to be unconfined on the premises where such dog is located.

(E) (1) No person who owns, harbors, or has the care, custody, or control of a vicious dog shall permit such dog to go beyond the premises of such person unless such dog is securely leashed and muzzled or otherwise securely restrained and muzzled. Any such leash or restraint device shall be no longer than 6 feet in total length.

(2) No person shall walk or run more than 1 vicious dog at the same time beyond the premises of the person who owns, harbors, or has the care, custody, or control of a vicious dog.

(F) No person shall own, harbor, or have the care, custody, or control of any dog for the use or purpose of dog fighting, nor shall any person train, torment, badger, bait or use any dog for the purpose of causing or encouraging such dog to attack a human being or domestic animal.

(G) (1) No person who has been convicted of a felony offense in this State or any other State, or under federal law, shall own, harbor, or have the care, custody, or control of a vicious dog.

(2) No person under the age of 18 years of age shall own, harbor, or have the care, custody, or control of a vicious dog.

(H) No person shall possess with intent to sell, or offer for sale, or breed, or buy or attempt to buy, any vicious dog.

(I) (1) Every person who owns, harbors, or has the care, custody, or control of a vicious dog shall maintain liability insurance with an insurer authorized to write liability insurance in this state providing coverage for the acts of the vicious in each occurrence, subject to a limit, exclusive of interest and costs, of not less than one hundred thousand dollars because of damage or bodily injury to or death of a person or domesticated animal caused by the vicious dog.

(2) Any person who walks, runs, transports, or otherwise removes a vicious dog from the premises of the owner or from the premises of the person who has the care, custody, or control of a vicious dog, shall carry upon their person during such time proof of the liability insurance, as prescribed in sub-section (1) above.

(J) This section is necessary control on the unrestrained activities of vicious dogs which threaten the health, safety, welfare, and pleasantness of the use of streets, parks, sidewalks, yards and all other areas of the City by citizens and visitors. Neither ignorance of this section nor the

absence of intent to violate the same are valid defenses to a prosecution for violation thereof.

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

(L) Any animal warden, police officer or other person authorized by the Mayor or Police Chief may impound an animal which has bitten or attacked a person or other animal without sufficient provocation. If, within ten days after such impounding, the owner fails to pay the cost of impounding and to make suitable arrangements for the immediate and permanent removal of such animal from the City, such animal may be destroyed unless it is deemed advisable to keep it under observation for a longer period of time, in which case the owner shall be given additional time within which to pay such cost and to dispose of the animal.

(M) Whoever violates any of the provisions of this section is guilty of a minor misdemeanor and shall be fined the amount of \$150.00 for each violation.

(N) If any violation of this section results in any type of physical injury to a person or domestic animal, the offender shall be guilty of a misdemeanor of the first degree.

(O) In addition to the penalty provided for in subsections (M) or (N) hereof, as restitution the court may order that whoever violates any of the provisions of this section shall pay all expenses, including shelter, food, veterinary expenses for identification or certification of the breed of the animal, boarding and veterinary expenses necessitated by the seizure of the dog for the protection of the public, and such other expenses as may be requested for the destruction of any such dog.

Section 2. Existing section 618.125 of the Codified Ordinances of Lima, Ohio is hereby amended as set forth above, and any previous section or ordinance in conflict herewith are hereby repealed.

Section 3. The Clerk of Council is authorized and directed to cause publication of this ordinance to be made in summary manner as provided by the City Charter.

Section 4. Council finds and determines that all formal actions of this Council and any of its committees concerning and relating to the adoption of this ordinance were taken in an open meeting and that all deliberations of this Council and of any of its committees that resulted in those formal actions were in meetings held in compliance with the law.

Section 5. For the reasons set forth in the preamble hereto, which is made a part hereof, this ordinance is hereby determined to be a legislative measure to define, prohibit, abate, suppress and prevent circumstances detrimental to the health, comfort, safety, convenience and welfare of the

inhabitants of the City, and all nuisances and causes thereof. It shall take effect and be in force forthwith upon passage by an affirmative vote of at least two-thirds of the members elected to council at the first reading hereof. If it shall not so pass it shall take effect and be in force forthwith upon passage by an affirmative vote of at least two-thirds of the members elected to council at the second reading hereof. If it shall not so pass at second reading then it shall take effect and be in force forthwith upon passage by an affirmative vote of at least a majority of the members elected to council at the third reading hereof. Otherwise, it shall take effect and be in force from and after the earliest period allowed by law.

Passed: _____, 2011

John G. Nixon, President

Approved: _____, 2011

David J. Berger, Mayor

Attest: _____
Sally Clemans, Clerk

