

Chapter 505 Green Paper
September 6, 2016
18 Items

To: Environment, Safety and Community Services Committee
From: Tom Henderson, Ward 4 Council Representative

This green paper enumerates a list of proposals regarding Chapter 505. It is intended to **document** proposals communicated to me from Ward 4 constituents, other Bay Village residents, Bay Village City Council representatives, Bay Village Administration, Avon Lake City Council representatives, and third parties for **debate and consideration**. Inclusion on this list does **not** necessarily indicate my personal endorsement of the proposal. This list is intended to capture **key concepts**, not to capture all details or to serve as draft legislation.

1) “Nuisance Dog”

ORC defines a Nuisance Dog as “a dog that without provocation while off premises of its owner, keeper, or harbinger has chased or approached a person in either a menacing fashion or an apparent attitude of attack or has attempted to bite or otherwise endanger any person.” Avon Lake requires that the owner of a Nuisance Dog must (summarized):

While at home:

- Confine the dog indoors [or]
- Confine the dog in a locked pen with a top and maintain direct supervision [or]
- Confine the dog in a yard with a 6-foot fence and maintain direct supervision [or]
- Restrain the dog with a leash held by a person or secured to a fixed object

While off premises of the owner:

- Restrain the dog with a non-retractable leash or be secured to a fixed object [and]
- Identify the dog with a neon yellow leash, collar, vest or other garment

Other requirements:

- Post an informational sign in the yard [and]
- Provide a photo of the dog and microchip information to the police
- Inform the police if the dog gets loose or bites someone or bites another animal
- Inform the police if the dog dies, is sold, or is moved to a new address
- Inform all veterinarians, groomers, etc. about the designation
- Maintain liability insurance of at least \$10,000

Note: At least one resident feels “an apparent attitude of attack” is vague; “endanger” should be “injure”; “without provocation” should include provocation by “an animal”; and “without provocation” should extend to protection of another domestic animal from harm.

2) “Potential Nuisance Dog” (aka “Pre-Bite Law”)

Avon Lake Ordinance 618.21 defines two levels of “Potential Nuisance Dog” (“PND”).

	PND Level 2	PND Level 1	Nuisance Dog	Dangerous Dog	Vicious Dog
Abbreviated definition (always “without provocation”):					
On premises: threatens a person or animal	X				
Off premises: threatens an animal	X				
Off premises: aggressively bites an animal		X			
Off premises: chased or attempted to bite a person			X		
Any location: injured a person or killed another dog (ORC)				X	
Any location: seriously injured or killed a person (ORC)					X

Owner of a PND must generally take ***all*** of the actions required for Nuisance Dog ***and***:

- Muzzle the dog while it is off premises of the owner
- Microchip the dog and provide that data to the police
- Vaccinate the dog for rabies and provide proof to the police
- Neuter or spay the dog

Avon Lake allows PND designation based on citizen testimony (not just police observation), but allows the police to refrain from doing so based on extenuating circumstances. The person making the complaint, must: be present when investigators arrive, sign a statement under the penalty of perjury and appear at any hearing related to the matter. Ohio Senate Bill 151 would allow for similar citizen testimony via notarized affidavits.

Ohio does not generally require rabies vaccinations for dogs, but ORC 955.22 (I) (c) (i) requires owners of Dangerous Dogs to obtain rabies vaccination.

3) “Declassification Process”

Avon Lake provides a process by which owners of Potential Nuisance Dogs, Nuisance Dogs, and Dangerous Dogs can be declassified:

	PND Level 2	PND Level 1	Nuisance Dog	Dangerous Dog	Vicious Dog
Abbreviated definition:					
1 year of good behavior	X	X	X		
Obedience training		X	X	X	
4 years of good behavior				X	
AKC “Canine Good Citizen” Test				X	
No opportunity for declassification					X

4) “Repeat Offender Law”

If a dog owner has had 2 or more Dangerous or Vicious dogs within a 5 year period:

- All their existing dogs shall be constrained as though they were Dangerous Dogs
- The person shall not be permitted to obtain a new dog without court permission
- Any time the person obtains a new dog, that dog shall complete obedience training
- The person shall maintain \$100,000 liability coverage if they own any dogs ,even if none of the dogs they currently own are Dangerous or Vicious

5) “One Strike Rule”

The owner of any dog that kills another dog should be fined \$1,000 on the first offence so that owners of all dogs that are *potentially* dangerous (but have not yet done anything wrong) are more likely to properly restrain and/or muzzle their dog before it attacks.

6) “Three Strikes Rule”

ORC 955.22(C) requires the owner of *any* dog (not just a Dangerous Dog) to keep the dog confined or restrained at home by a leash, tether, fence, supervision or enclosure and, when not at home, to keep the dog under reasonable control of some person.

ORC 955.11(A)(1)(a)(iii) requires any dog that has been subject to 3 or more violations of ORC 955.22(C) to be deemed a “Dangerous Dog.” Bay does not include this definition.

7) “One Dog Limit”

Avon Lake Ordinance 618.26 precludes residents from owning more than 1 dangerous dog.

8) Create a webpage of Nuisance, Dangerous and Vicious Dogs

Create a web page similar to Avon Lake’s web page which informs the public about the existence of Nuisance, Dangerous and Vicious Dogs in the city. That website includes:

- A map of the city with markers indicating where the dogs are located (7 as of 9/5/16)
- A photo of the dog with the word Nuisance, Dangerous or Vicious printed into the photo
- The dog’s name
- The dog’s breed
- The dog’s location (address)
- A very brief description of why it is designated as such (i.e., “Killed another dog 7/5/16)

9) Hire an Animal Control Officer

Several residents have proposed that Bay Village hire an Animal Control Officer.

10) Enhance “Leash Law” Enforcement

- Permanently increase enforcement of Section 505.01 (“leash law”), especially by issuing citations for a first offence, levying fines for a first offence and increasing misdemeanor degrees for repeated offences within the first 12 months of the first offence.
- At least temporarily increase patrols, on foot, to enforce the leash law in city parks.

11) Ban Pit Bulls

Several residents have proposed that Bay Village prohibit the ownership of pit bulls; at least one noted that the dog ordinances passed by Avon Lake in 2015 stemmed from pit bull attacks in Avon Lake, both of which resulted in the death of another dog. Ohio amended state law in 2012 to remove “pit bull” from the definition of Vicious Dog.

12) Confirm Microchip vs. Tattoo Requirement are Current

Avon Lake’s ordinances and ORC refer to microchips (but not tattoos) for dangerous dogs.

13) Ban Retractable Leashes

Avon Lake is considering banning the use of retractable leashes

14) Expand definition of Animal Cruelty and/or Neglect

At least one resident feels owning two or more Dangerous Dogs should be an indication that all dogs owned by the individual are victims of animal cruelty and/or neglect.

15) Ensure Fence and Dog Laws are Compatible

Section 1163.05 limits the maximum height of a fence to a level which may be too low to protect the public from a dangerous dog. Section 505.24(C), as proposed in the draft in the 9/6/16 Council Packet, does not define a minimum height or other minimum standards to protect the public from a dangerous dog. The use of electric dog fences must be clarified.

16) Review Ohio Senate Bill 151 (the “Klonda Richey Act”)

The Ohio Senate referred SB 151 to the Agriculture Committee in April 2015 (third hearing in April 2016). It would change state law pertaining to dangerous and vicious dogs. See: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA131-SB-151>

17) Ban Tethering and Chaining

At least one resident recommended that tethering be banned. The US Humane Society describes tethering as: “Generally speaking, the terms “tethering” and “chaining” refer to the practice of fastening a dog to a stationary object and leaving him unattended. The term “chaining” tends to refer to situations where thick, heavy chains are used. “Tethering” is more often referred to partial restraint on a rope, lighter chain or pulley, which is the more prevalent form of tethering. These terms are not meant to refer to an animal being walked on a leash, or cases of supervised, temporary tethering while an owner is present.”

18) Incorporate ORC 959.131 definition of “Companion animal”

At least one third party expert expressed concern regarding the use of the words “or other domestic animal” as proposed in the draft in the 9/6/16 Council Packet, noting that this could include feral or free-roaming cats.

Instead, consider ORC 959.131 (A) (1), which states: *“Companion animal” means any animal that is kept inside a residential dwelling and any dog or cat regardless of where it is kept. Companion animal does not include livestock or any wild animal.*

Use this term in lieu of “dog, cat or other domestic animal” in BV Section 505. This definition is also referenced in Ohio SB 151.