NOTICE OF COMMITTEE MEETING

ENVIRONMENT, SAFETY, AND
COMMUNITY SERVICES COMMITTEE
Councilman Paul Vincent, Chair
Councilwoman Nancy W. Stainbrook
Councilman David L. Tadych

Monday, March 27, 2017

6:30 p.m.

Conference Room
(Meeting will move to Council Chambers if additional room is required)
Bay Village City Hall

Agenda

Chapter 505 - Animal Control Ordinance
CHAPTER 505
Animals and Fowl

505.01 Dogs, cats and other animals running at large.
505.02 Animals prohibited in the City.
505.03 Annual registration of dogs; tags required.
505.04 Abandoning animals.
505.05 Killing or injuring animals.
505.06 Poisoning animals.
505.07 Cruelty to animals generally.
505.071 Cruelty to companion animals.
505.08 Neglect.
505.09 Claimed animals.
505.10 Fees and costs.
505.11 Rabies vaccination of dogs required.
505.12 Unsanitary conditions: odors.
505.13 Nuisance conditions prohibited.
505.14 Barking or howling animals.
505.15 Animal bites; reports and quarantine.
505.16 Hunting prohibited.
505.17 Coloring rabbits or baby poultry; sale or display of poultry.
505.18 Report of escape of exotic or dangerous animal.
505.19 Dangerous and vicious dogs.
505.20 Determination of dangerous and vicious dogs.
505.21 Appeal procedure.
505.22 Registration of dangerous or vicious dogs.
505.23 Insurance for vicious dogs.
505.24 Restraint of dangerous or vicious dogs.
505.25 Inspection obstruction.
505.26 Serious physical harm by dangerous or vicious dogs.
505.27 Physical harm by dangerous or vicious dogs.
505.28 Impoundment; destruction of dogs.
505.29 Keeping banned dogs.
505.30 Dog fighting.
505.31 Strict liability.
505.32 Enforcement.
505.33 Feeding of deer prohibited.
505.99 Penalty.

CROSS REFERENCES
See sectional histories for similar State law
Owner or keeper liable for damages - see Ohio R.C. 951.10
Dog registration - see Ohio R.C. 955.01

505.01 DOGS, CATS, AND OTHER ANIMALS RUNNING AT LARGE.
(a) No person, being the owner or in charge or control of any dog, cat, or other animal, shall permit or allow by any means or in any manner, such dog, cat, or other animal, to go or remain upon any public Street or Place within the City except when accompanied by a responsible person and upon a leash. The length of a leash shall be no longer than that which is reasonably necessary to maintain control of a pet and to prevent the pet from trespassing on private property, or from chasing or attacking any person, animal or vehicle. As against the owner or person in charge or control of any such dog, cat, or other animal, evidence that such dog, cat, or other animal, was found at large upon any public street or place within the City shall be prima-facie evidence of a violation of this section.
(b) No person, being the owner or in charge or control of any dog, cat, or other animal, shall permit or allow by any means or in any manner, such dog, cat, or other animal, to go or remain on any city park property without reasonable restraint and leashed and under control. Reasonable restraint and under control is defined here as restraint which conforms to the animals weight, size, and strength, being controlled by a person who is of suitable age, size and discretion to control the animal.

(c) While on private property, it shall be unlawful to allow any dog, cat, or other animal, outdoors on private property unless the animal is leashed, or contained in a fence or under the control of a responsible individual. It shall be unlawful for any owner to allow his or her animal to cross outside the property line of its owner to any extent, including reaching over, under or through a fence. Any method of pet containment is not considered valid during a period of time when failure or lack of maintenance renders it non-effective. Visible signage to an electronic pet containment system must be posted.

(d) Whoever violates or fails to comply with this section is guilty of a minor misdemeanor and is subject to incremental increases in misdemeanor degrees with repeated offenses that occur within the first twelve (12) months of the first offense. (Ord. 03-07. Passed 4-7-03.)

505.02 ANIMALS PROHIBITED IN THE CITY.
(a) Definitions:
(1) "Farm animals:
A. Chickens, Ducks, Geese, or any other fowl
B. Sheep, Goats, Horses, Cattle, Swine, or any other hoofed animal
(2) "Wild" or "dangerous" or "undomesticated animal": means an animal whose natural habitat is the wilderness and which, when maintained in a human society, is usually confined in a zoological park and which includes any of the following:
A. Venomous creature: Includes spiders and reptiles.
B. Constrictor snakes.
C. Omnivorous or carnivorous animal that weighs more than twenty five (25) pounds and which is a predator in its natural habitat.
D. Animal which by reason of its size, strength or appetite, would, if unrestrained and free in the city, cause peril to persons, household pets, buildings, landscape or shrubbery.
E. Includes, but is not limited to the following: Lion, Tiger, Lynx, Mountain Lion, Jaguar, Cheetah, Leopard, Panther, Bear, Wolverine, Elk, Moose, Caribou, Elephant, Giraffe, Rhinoceros, Hippopotamus, Wolf, Wild Ox, Boar, Crocodile, Alligator, Caiman, Gavial. Including hybrids.

(b) No person shall own, harbor, or keep any farm animal with in the City.

(c) No person shall own, harbor or keep any wild, or dangerous or undomesticated animal within the City.
(d) Whoever violates subsection (b) hereof is guilty of a minor misdemeanor. Whoever violates subsection (c) is guilty of a misdemeanor in the fourth degree for the first offense, a misdemeanor in the third degree for a second offense, and a misdemeanor in the second degree for the third offense. Each and every day during such period, may be deemed a separate offense. (Ord. 03-07. Passed 4-7-03.)

505.03 ANNUAL REGISTRATION OF DOGS; TAGS REQUIRED.
(a) Except for guide dogs registered under Ohio R.C. 955.011 and dogs kept by an institution or organization for teaching and research purposes under Ohio R.C. 955.16, no person shall own, keep or harbor a dog more than three months of age without annually registering such dog with the County Auditor. Failure of any dog at any time to wear a valid registration tag shall be prima facie evidence of lack of registration and subject such dog to impounding and disposition provided by Ohio R.C. 955.16. Proof of registration must be produced within twenty-four (24) hours of request. Failure to provide proof of registration will result in a minor misdemeanor.

(b) Whoever violates this section is guilty of a minor misdemeanor for a first offense, and a misdemeanor of the fourth degree for each subsequent offense.
(Ord. 03-07. Passed 4-7-03.)

505.04 ABANDONING ANIMALS.
(a) No owner or keeper of a dog, cat or other domestic animal shall abandon such animal. (ORC 959.01)

(b) Whoever violates this section is guilty of a misdemeanor of the second degree on a first offense and a misdemeanor of the first degree on each subsequent offense.
(ORC 959.99)

505.05 KILLING OR INJURING ANIMALS.
(a) No person shall maliciously, or willfully, kill or injure a farm animal, dog, cat or other domestic animal. This section does not apply to a licensed veterinarian, or animal control officer/law enforcement officer acting in an official capacity, or to trespassing animals as set forth in Ohio R.C. 959.04.

(b) Whoever violates this section, if the value of the animal killed or the injury done amounts to less than three hundred dollars ($300.00), is guilty of a misdemeanor of the second degree; if the value of the animal killed or the injury done amounts to three hundred dollars ($300.00) or more, such person is guilty of a misdemeanor of the first degree.
(Ord. 03-07. Passed 4-7-03.)

505.06 POISONING ANIMALS.
(a) No person shall maliciously, or willfully administer poison, except a licensed veterinarian acting in such capacity, to a farm animal, dog, cat, poultry or other domestic animal. No person shall, willfully place any poisoned food where it may be easily found and eaten by any of such animals, either upon his own lands or the lands of another. This section does not apply to trespassing animals as set forth in ORC.

(b) Whoever violates this section is guilty of a misdemeanor of the second degree.
(Ord. 03-07. Passed 4-7-03.)
505.07 CRUELTY TO ANIMALS GENERALLY.
No person shall:
(a) Torture an animal, deprive one of necessary sustenance, unnecessarily or cruelly beat, needlessly mutilate or kill, or impound or confine an animal without supplying it during such confinement with a sufficient quantity of good wholesome food and water; (ORC 959.13 (A)(1))
(b) Impound or confine an animal without affording it, during such confinement, access to shelter from wind, rain, snow, or excessive direct sunlight if it can reasonably be expected that the animal would otherwise become sick or in some other way suffer. For the purpose of this section, shelter means a man-made enclosure, windbreak, sunshade, or natural windbreak or sunshade that is developed from the earth's contour, tree development, or vegetation; (ORC 959.13 (A) [2])
(c) Carry or convey an animal in a cruel or inhuman manner; (ORC 959.13 (A) [3])
(d) Any person charged with animal neglect (C.O. 505.08) who upon notification did not resolve the problem immediately will be charged with this section.
(e) Whoever violates this section is guilty of a misdemeanor of the second degree.
(Ord. 03-07. Passed 4-7-03.)

505.071 CRUELTY TO COMpanion ANIMALS.
(a) As used in this section:
(1) "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.
(2) "Cruelty", "torment" and "torture" have the same meanings as in Ohio R.C. 1717.01.
(3) "Residential dwelling" means a structure or shelter or the portion of a structure or shelter that is used by one or more humans for the purpose of a habitation.
(4) "Practice of veterinary medicine" has the same meaning as in Ohio R.C. 4741.01.
(5) "Wild animal" has the same meaning as in Ohio R.C. 1531.01.
(7) "Dog kennel" means an animal rescue for dogs that is registered under Ohio R.C. 956.06, a boarding kennel or a training kennel.

(b) No person shall knowingly torture, torment, needlessly mutilate or maim, cruelly beat, poison, needlessly kill, or commit an act of cruelty against a companion animal.

(c) No person who confines or who is the custodian or caretaker of a companion animal shall negligently do any of the following:

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(1) Commit any act by which unnecessary or unjustifiable pain or suffering is caused, permitted or allowed to continue, when there is a reasonable remedy or relief, against the companion animal;

(2) Omit any act of care by which unnecessary or unjustifiable pain or suffering is caused, permitted or allowed to continue, when there is a reasonable remedy or relief, against the companion animal;

(3) Commit any act of neglect by which unnecessary or unjustifiable pain or suffering is caused, permitted or allowed to continue, when there is a reasonable remedy or relief, against the companion animal;

(4) Needlessly kill the companion animal;

(5) Deprive the companion animal of necessary sustenance, confine the companion animal without supplying it during the confinement with sufficient quantities of good, wholesome food and water, or impound or confine the companion animal without affording it, during the impoundment or confinement, with access to shelter from heat, cold, wind, rain, snow, or excessive direct sunlight, if it can reasonably be expected that the companion animal would become sick or suffer in any other way as a result of or due to the deprivation, confinement, or impoundment in any of those specified manners.

(d) No owner, manager, or employee of a dog kennel who confines or is the custodian or caretaker of a companion animal shall negligently do any of the following:

(1) Commit any act by which unnecessary or unjustifiable pain or suffering is caused, permitted or allowed to continue, when there is a reasonable remedy or relief, against the companion animal;

(2) Omit any act of care by which unnecessary or unjustifiable pain or suffering is caused, permitted, or allowed to continue, when there is a reasonable relief, against the companion animal;

(3) Commit any act of neglect by which unnecessary or unjustifiable pain or suffering is caused, permitted or allowed to continue, when there is a reasonable remedy or relief, against the companion animal;

(4) Needlessly kill the companion animal;

(5) Deprive the companion animal of necessary sustenance, confine the companion animal without supplying it during the confinement with sufficient quantities of good, wholesome food and water, or impound or confine the companion animal without affording it, during the impoundment or confinement, with access to shelter from heat, cold, wind, rain, snow or excessive direct sunlight if it can reasonably be expected that the companion animal would become sick or suffer in any other way as a result of or due to the deprivation, confinement, or impoundment or confinement in any of those specified manners.

(e) Subsections (b), (c) and (d) of this section do not apply to any of the following:

(1) A companion animal used in scientific research conducted by an institution in accordance with the federal animal welfare act and related regulations;

(2) The lawful practice of veterinary medicine by a person who has been issued a license, temporary permit, or registration certificate to do so under Ohio R.C. Chapter 4741;
(3) Dogs being used or intended for use for hunting or field trial purposes, provided that the dogs are being treated in accordance with usual and commonly accepted practices for the care of hunting dogs;

(4) The use of common training devices, if the companion animal is being treated in accordance with usual and commonly accepted practices for the training of animals;

(5) The administering of medicine to a companion animal that was properly prescribed by a person who has been issued a license, temporary permit, or registration certificate under Ohio R.C. Chapter 4741. (ORC 959.131)

(f) (1) Whoever violates subsection (b) hereof is guilty of a misdemeanor of the first degree on a first offense. On each subsequent offense such person is guilty of a felony and shall be prosecuted under appropriate State law.

(2) Whoever violates subsection (c) hereof is guilty of a misdemeanor of the second degree on a first offense and a misdemeanor of the first degree on each subsequent offense.

(3) Whoever violates subsection (d) hereof is guilty of a misdemeanor of the first degree.

(4) A. A court may order a person who is convicted of or pleads guilty to a violation of this section to forfeit to an impounding agency, as defined in Ohio R.C. 959.132, any or all of the companion animals in that person's ownership or care. The court also may prohibit or place limitations on the person's ability to own or care for any companion animals for a specified or indefinite period of time.

B. A court may order a person who is convicted of or pleads guilty to a violation of this section to reimburse an impounding agency for the reasonably necessary costs incurred by the agency for the care of a companion animal that the agency impounded as a result of the investigation or prosecution of the violation, provided that the costs were not otherwise paid under Ohio R.C. 959.132.

(5) If a court has reason to believe that a person who is convicted of or pleads guilty to a violation of this section suffers from a mental or emotional disorder that contributed to the violation, the court may impose as a community control sanction or as a condition of probation a requirement that the offender undergo psychological evaluation or counseling. The court shall order the offender to pay the costs of the evaluation or counseling. (ORC 959.99)

505.08 NEGLECT OF ANIMALS.
For the sake of public health, comfort or enjoyment of any people, and for the animal's well being, no animal should be kept in unsanitary conditions. No person shall maintain or keep an animal in unsanitary conditions, including; accumulation of feces, and odor, insect or rodent infestation. Anyone who keeps an animal must provide the following:

(a) Clean potable drinking water at all times, and suitable food of sufficient quantity to ensure normal growth and maintenance or normal body weight.

(b) Food and water receptacles kept clean and disinfected and located so as to avoid contamination by feces.

(c) Necessary veterinary medical care when the animal exhibits signs of pain or suffering.

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(d) Provide the animal shelter to ensure protection from elements, which is appropriate to the animals weight and type of hair-coat. Such shelters must also provide sufficient space to allow any animal the ability to turn about freely and lie in a normal position. The shelter must be in an area providing sufficient shade by natural or artificial means to protect the animal from direct rays of sun at all times, and must supply sufficient ventilation. All areas must be regularly cleaned and sanitized. Accumulated feces must be removed on a regular basis to control disease parasites.

(e) Whoever violates this section is guilty of a misdemeanor of the fourth degree on a first offense. If the violation is not resolved immediately upon notification, the owner, keeper or harborer will be charged with cruelty to animals. Whoever violates or is left unresolved, shall constitute a second offense under Cruelty to Animals. (Ord. 03-07. Passed 4-7-03.)

505.09 CLAIMED ANIMALS.
In order to claim and redeem any impounded animal from the city kennel, the owner, keeper or harborer thereof shall submit to the Law Enforcement Officer or Animal Control Officer proof of ownership. Further, as consideration of release, the owner, keeper or harborer of a dog, shall show proof of county dog license registration of that animal. Finally as a condition of release, the owner, keeper or harborer shall pay all fees and cost in connection to the impoundment. (Ord. 03-07. Passed 4-7-03.)

505.10 FEES AND COSTS.
The following fees and costs shall accrue with regard to the impoundment of animals:

<table>
<thead>
<tr>
<th>Service</th>
<th>Fee</th>
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<tbody>
<tr>
<td>The seizing and impounding of an animal</td>
<td>$25.00</td>
</tr>
<tr>
<td>Kennel Fee for feeding and housing per twenty four (24) hour period*</td>
<td>$15.00 **</td>
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*K Kennel impoundment fees to be placed in the appropriate fund for the use of buying kennel supplies.

**Subject to prevailing kennel/boarding fees whichever is greater. If animal is picked up within 24 hours of notification, kennel fees will be waived.
(Ord. 03-07. Passed 4-7-03.)

505.11 RABIES VACCINATION OF DOGS REQUIRED.
(a) Any person owning, keeping or harboring any dog or cat over the age of six (6) months shall be required to have such animal currently immunized against rabies by a licensed veterinarian.

(b) All owners, keepers and harborers as described in section (a) hereof shall maintain a record of such immunization as provided by a veterinarian and produce proof of such immunization to any law enforcement officer.

(c) Whoever violates this section shall be guilty of a minor misdemeanor.
(Ord. 03-07. Passed 4-7-03.)

505.12 UNSANITARY CONDITIONS: ODORS.
(a) No person shall own any animal in the municipality so as to create noxious, or offensive odors or unsanitary conditions that cause a risk to the health, comfort, or safety of the public.

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505.13 GENERAL OFFENSES CODE

(b) Whoever violates this section shall be guilty of a minor misdemeanor.
(Ord. 03-07. Passed 4-7-03.)

505.13 NUISANCE CONDITIONS PROHIBITED.
(a) No owner or keeper or person having custody or control of any animal shall allow or permit such animal to commit a nuisance on any public property or upon private property other than that of the owner or keeper or person who has accepted custody or control of such animal, provided that the foregoing shall not apply to street gutters. It shall be the duty of all persons having control of animal to curb such animal and immediately remove all feces and dispose of same in a sanitary and proper manner, in order to carry out the intent of this section. The word "nuisance" as used herein means urination and defecation.

(b) Whoever violates this section is guilty of a minor misdemeanor.
(Ord. 03-07. Passed 4-7-03.)

505.14 BARKING OR HOWLING ANIMALS.
(a) No person shall keep or harbor any animal within the City which, by frequent or habitual barking, howling, yelping, screeching or biting disturbs the peace, quiet and good order of the City or endangers the repose or health of persons in the City. Any person who allows any animal habitually to remain, be lodged or fed within any dwelling, building, yard or enclosure, which he occupies or owns, shall be considered as harboring such animal. However, it is deemed that no nuisance exists if any time such animal howls, barks, screeches or bites it is in response to a trespass on the property of the owner, or in response to the teasing, tormenting or abusing of such animal on the owner's property.

(b) Whoever violates this section is guilty of a minor misdemeanor.
(Ord. 03-07. Passed 4-7-03.)

505.15 ANIMAL BITES; REPORTS AND QUARANTINE.
(a) Whenever any person is bitten by any animal a report of such bite shall be made to the Police Chief within 24 hours. All animals deemed by the County Health Officials as an animal susceptible to rabies shall be quarantined under an order issued by the Police Chief. The animal shall be quarantined by its owner or by a harbinger, or shall be quarantined in a pound or kennel. In all cases, such quarantine shall be under the supervision of the Police Chief and shall be at the expense of the owner or harbinger. Quarantine shall continue until the Police Chief determines that the animal is not afflicted with rabies. The quarantine period hereby required shall not be less than ten days from the date on which the person was bitten. If at any time during the quarantine, the Police Chief requires the animal to be examined for symptoms of rabies, then the examination shall be by a licensed doctor of veterinary medicine. The veterinarian shall report to the Police Chief the conclusions reached as a result of the examinations. The examination by a veterinarian shall be at the expense of the owner or harbinger. No animal shall be released from quarantine unless and until it has been properly vaccinated against rabies.

(b) No person shall fail to comply with the requirements of this section or with any order of the Police Chief made pursuant thereto, nor fail to immediately report to the Police Chief any symptoms or behavior suggestive of rabies.

(c) Whoever violates this section is guilty of a minor misdemeanor.
(Ord. 03-07. Passed 4-7-03.)

505.16 HUNTING PROHIBITED.
(a) No person shall hunt, kill or attempt to kill any animal or fowl by any means within the City, whether with or without a license or in or out of season.

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(b) Whoever violates this section is guilty of a misdemeanor of the fourth degree.
(Ord. 03-07. Passed 4-7-03.)

505.17 COLORING RABBITS OR BABY POULTRY; SALE OR DISPLAY OF POULTRY.
(a) No person shall dye or otherwise color any rabbit or baby poultry, including, but not limited to, chicks and ducklings. No person shall sell, offer for sale, expose for sale, raffle or give away any rabbit or poultry which has been dyed or otherwise colored. No poultry younger than four weeks of age may be sold, given away or otherwise distributed to any person in lots of less than six. Stores, shops, vendors and others offering young poultry for sale or other distribution shall provide and operate brooders or other heating devices that may be necessary to maintain poultry in good health, and shall keep adequate food and water available to the poultry at all times. (ORC 925.62)

(b) Whoever violates this section is guilty of a minor misdemeanor.
(Ord. 03-07. Passed 4-7-03.)

505.18 REPORT OF ESCAPE OF EXOTIC OR DANGEROUS ANIMAL.
(a) The owner or keeper of any member of a species of the animal kingdom that escapes from his custody or control and that is not indigenous to this State or presents a risk of serious physical harm to persons or property, or both, shall, within one hour after he discovers or reasonably should have discovered the escape, report it to:
   (1) A law enforcement officer of the Municipality and the sheriff of the county where the escape occurred; and
   (2) The Clerk of the Municipal Legislative Authority.

(b) If the office of the Clerk of the Legislative Authority is closed to the public at the time a report is required by subsection (a) hereof, then it is sufficient compliance with subsection (a) hereof if the owner or keeper makes the report within one hour after the office is next open to the public.

(c) Whoever violates this section is guilty of a misdemeanor of the first degree.
(Ord. 03-07. Passed 4-7-03.)

505.19 DANGEROUS AND VICIOUS DOGS.
As used in this chapter, certain terms are defined as follows:
(a) "Dangerous dog" means a dog that caused injury other than killing or serious injury to any person, or kills another dog, cat or other domestic animal while on the premises of the owner. Dangerous dog does not include a police dog that has caused injury other than killing or serious injury to any person or has killed another dog, cat or other domestic animal while the police dog is being used to assist law enforcement officers in the performance of his official duties.

(b) "Menacing fashion," means that a dog could cause any person being chased or approached to reasonably believe that the dog could cause physical injury to that person.

(c) "Owner" means any person owning, keeping, possessing, harboring, maintaining, or having the care, custody, or control of a dog or the parents or guardian of a minor owning, keeping, possessing, harboring, maintaining or having the care, custody or control of a dog.
(d) "Police dog" means a dog that has been trained, and may be used, to assist law enforcement officers in the performance of their duties.

(e) "Serious injury" means any of the following:
   (1) Any physical harm that carries a substantial risk of death;
   (2) Any physical harm that involves a permanent incapacity, whether partial or total or a temporary substantial incapacity;
   (3) Any physical harm that involves a permanent disfigurement or a temporary, serious disfigurement;
   (4) Any physical harm that involves acute pain of a duration that results in substantial suffering or any degree of prolonged or intractable pain;

(f) "Vicious dog" (as defined in ORC 955.11 (A) (4)(46) means a dog that, without provocation:
   (1) Has killed or caused serious injury to any person;
   (2) "Vicious Dog" does not include either of the following:
      A. A police dog that has killed or caused serious injury to any person while the police dog is being used to assist one or more law enforcement officers in the performance of their official duties;
      B. A dog that has killed or caused serious injury to any person while a person was committing or attempting to commit a trespass or other criminal offense on the property of the owner, keeper, or harborer of the dog.

(g) "Provocation" means that any dog was teased, tormented or abused by a person or that the dog was coming to the aid or defense of a person who was not engaged in illegal activity, and whose person or property was in imminent danger of physical harm.

(Ord. 12-41. Passed 5-21-12.)

505.20 DETERMINATION OF DANGEROUS AND VICIOUS DOGS.

(a) Whenever a complaint is made to the Police Department or the Animal Control Officer, of the presence of a dangerous or vicious dog within the city, the Chief of Police or designee shall promptly inspect or cause an inspection of the premises on which it is alleged that such animal is being kept.

(b) The Chief of Police or designee shall determine that a dog is dangerous pursuant to this chapter upon proof by a preponderance of the evidence of any of the following:
   (1) Without provocation, the dog has caused injury other than killing or serious injury to any person.
   (2) Without provocation, the dog has killed another dog, cat or other domestic animal.

(c) The Chief of Police shall determine that a dog is vicious pursuant to this chapter upon proof by a preponderance of the evidence that:
   (1) Without provocation; the dog has killed or caused serious injury to any person.
(d) If the Chief determines that a dangerous/vicious dog is being kept within the City, the Chief shall determine the individual, firm or corporation who from the records in the Auditors office of Cuyahoga County, appears to be the owner of the dog, or if such information is not available, the titled owner of the property upon which the dog is kept, and shall, within five days, cause written notice to be served on such owner. Notice shall be served by certified mail with a return receipt requested. If service of such written notice is unable to be perfected, then the Chief of Police 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 is no individual in possession of the premises, he shall cause a copy of the notice to be posted on premises.

(e) The notice required by this section (c) hereof shall state, in brief, the findings with respect made to the dangerous or vicious nature of the dog. The notice shall further state that the owner must comply with the requirements of this chapter within thirty days after service of the notice.

(f) Police dogs are exempt from these provisions for all actions occurring in the course of their duties.  
(Ord. 12-41. Passed 5-21-12.)

505.21 APPEAL PROCEDURE.
(a) The owner of a dog who has been served with a notice pursuant to Section 505.20 (d) may, within seven days after receipt of such notice, make a written demand to the Chief of Police for a hearing on the question of whether the dog is dangerous or vicious as defined in Section 505.19.

(b) Every effort should be made to hold a hearing no later than ten days following receipt of written demand to the Chief of Police and at least three days notice of the hearing shall be given to the individual, who made the demand for the hearing.  
(Ord. 03-07. Passed 4-7-03.)

505.22 REGISTRATION OF DANGEROUS OR VIOLENT DOGS.
(a) Any person owning, keeping, possessing, maintaining or having the care, custody or control of a dangerous or vicious dog shall:
   (1) Register the dog with the police department annually, between January 2 and January 20, and whenever a dog is newly obtained.
   (2) At the time of registration provide proof of liability insurance as required by Section 505.23 (a).  
(Ord. 03-07. Passed 4-7-03.)
(3) Identify the dog by having the dog tattooed with a code number or a microchip implanted at the owner’s expense. In the event that said animal has a history of aggressive behavior within the City of Bay Village, said dog will be required to have a tattoo. Provide the Police Department with that code number and two color photos of the dog. One photo should clearly show the tattoo number on the dog and the other should be a clear photo of the whole dog. (Ord. 04-27. Passed 3-1-04.)

(4) Provide two color photographs of the dog annually.

(5) Post on the premises, in a conspicuous place where the dog is kept, at least one City-issued sign available, upon payment of thirty dollars ($30.00) for each sign from the Police Department. The sign shall be visible and capable of being read from the public highway or street and will include the wording: “DANGEROUS or VICIOUS.” The Animal Control Officer will determine sign language. This sign shall be maintained and remain in place during the possession of the animal.

(6) Notify the Police Department within seventy two hours, if the dangerous or vicious dog has died, or has been sold or donated and provide the Police Department with the names, address and telephone number of the new owner.

(b) Whoever fails to register a dangerous or vicious dog as provided in this section is guilty of a minor misdemeanor for the first offense, a misdemeanor of the fourth degree for a second offense and a misdemeanor of the third degree for the third offense. Each and every day during such period of noncompliance with this section may be deemed a separate offense. (Ord. 03-07. Passed 4-7-03.)

505.23 INSURANCE FOR VICIOUS DOGS.

(a) No owner of a vicious dog shall fail to obtain liability insurance with an insurer authorized to write liability insurance in this State providing coverage in each occurrence, subject to a limit, exclusive of interest and costs, of not less than one hundred thousand dollars ($100,000) because of damage to property or bodily injury to or death of a person caused by the vicious dog.

(b) Whoever violates this section is guilty of a misdemeanor of the fourth degree on the first offense, a third-degree misdemeanor on the second offense, and a second-degree misdemeanor on the third offense. Each and every day during such period of noncompliance with this section may be deemed a separate offense. (Ord. 03-07. Passed 4-7-03.)

505.24 RESTRANST OF DANGEROUS OR VICIOUS DOGS.

(a) No owner or person in charge of a dangerous or vicious dog shall fail to do one of the following:

1. Keep the dog securely inside of the owner's home.

2. Keep the dog in a locked enclosure at least five feet by ten feet, which has a secure top and sides. If the enclosure has no bottom securely attached to the sides, the sides must be embedded into the ground no less than two feet or must have a concrete base with the fencing securely attached or anchored to the concrete perimeter to a depth of six inches. All fencing must conform to the City of Bay Village Building Standards.

2014 Replacement
(3) Keep the dog securely muzzled, making sure such muzzle does not interfere
with the dogs breathing. Also, the dog must be fitted with a proper collar
that will prevent the dog slipping out of it or breaking through it, and attach
a substantial leash to the collar that conforms to the dogs weight, size and
strength, not more than four feet in length which is held in the hand of a
person who is of suitable age, size and discretion to control the dog and
who is outside with the dog.

(b) Whoever violates this section is guilty of a misdemeanor in the fourth degree on the
first offense, a misdemeanor of the third degree in the second offense and a misdemeanor of the
second degree on the third offense.
(Ord. 03-07. Passed 4-7-03.)

505.25 INSPECTION OBSTRUCTION.
(a) Any person owning, keeping, possessing, harboring, maintaining or having the
care, custody or control of a dangerous or vicious dog shall be deemed to have given consent to
an inspection of the property, other than within any private structure unless otherwise authorized
by law, by any law enforcement officer or the Animal Control Officer for the purpose of
determining compliance with the requirements of this chapter.

(b) No person, with purpose to prevent, obstruct or delay the performance by law
enforcement officer or the Animal Control Officer of any authorized act within his official
capacity, shall do any act which hampers or impedes said official in the performance of his lawful
duties under the provisions of this chapter.
   (1) Whoever violates subsection (b) hereof is guilty of a misdemeanor of the
   fourth degree. (Ord. 03-07. Passed 4-7-03.)

505.26 SERIOUS PHYSICAL HARM BY DANGEROUS OR VICIOUS DOGS.
(a) No person, being the owner or having the care, custody or control of any dangerous
or vicious dog within the city, shall allow such dog to cause serious physical harm to any person,
except in defense of such owner’s person or property.

(b) Lack of intent on the part of such person to allow such dog to injure another, or the
lack of knowledge of the violent propensities of such dog, is not defense to a violation of this
section.

(c) Whoever violates this section is guilty of a misdemeanor of the first degree.
(Ord. 03-07. Passed 4-7-03.)

505.27 PHYSICAL HARM BY DANGEROUS OR VICIOUS DOGS.
(a) No person, being the owner or having the care, custody or control of any dangerous
or vicious dog within the City, shall allow such a dog to cause physical harm to any person, except
in defense of such owner’s person or property, or to cause physical harm to another dog, cat, or
other domestic animal.
(b) Lack of intent on the part of such person to allow such dog to injure another, or the lack of knowledge of the violent propensities of such dog, is not defense to a violation of this section.

(c) Whoever violates this section is guilty of a misdemeanor of the second degree.  
(Ord. 03-07. Passed 4-7-03.)

505.28 IMPOUNDMENT: DESTRUCTION OF DOGS.
(a) When any person, being the owner or having custody or control of any dog charged with a violation of this chapter, the court may, upon motion of any party or it's own motion, order the seizure and impoundment of the dog pending trial.

(b) In the event that a Law Enforcement Officer or the Animal Control Officer has probable cause to believe that a dangerous or vicious dog is running at large, he/she may seize and impound the dog without seeking prior court order.

(c) Nothing in this section shall be construed to prevent a Law Enforcement Officer or Animal Control Officer from seizing or destroying any animal which presents an immediate risk of physical harm to any person or property.

(d) Any dog that attacks and injures any person, another dog or cat, shall be humanely destroyed when, in the courts judgment, such dog represents a continuing threat of serious harm to persons or other such animals. The Chief of Police may petition the court of competent jurisdiction for an order to humanely destroy any dog impounded pursuant to this chapter which represents a threat of harm to any person caring for such animal. The court shall order any dog that kills or causes serious physical harm to any person, other than a person committing a criminal trespass or other crime of violence upon the premises of the owner of such dog, humanely destroyed.  
(Ord. 03-07. Passed 4-7-03.)

505.29 KEEPING BANNED DOGS.
(a) No person shall own, keep, possess, harbor, maintain or have the care, custody or control of a dog within the city when such dog has been banned by order of a court of competent jurisdiction from any municipality, county, township or other political subdivision.

(b) Compliance with the requirements of this chapter is not a defense to a violation of this section.

(c) Whoever violates this section is guilty of a misdemeanor of the first degree. Each and every day during such period may be deemed a separate offense.  
(Ord. 03-07. Passed 4-7-03.)

505.30 DOG FIGHTING.
(a) Animal Fights ORC 959.15: No person shall knowingly engage in or be employed at cockfighting, bearbaiting or pitting an animal against another. No person shall receive money for the admission of another to a place kept for such purpose. No person shall use, train or possess any animal for seizing, detaining or maltreating a domestic animal. Any person, who knowingly purchases a ticket of admission to such place or is present thereat or witnesses such spectacle, is an aider and abettor. Whoever violates this section, is guilty of a misdemeanor of the fourth degree.

2003-1 Replacement
(b) Dog Fighting Offenses, Investigations, Confiscation of Dogs and Equipment, ORC 959.16: No person shall do any of the following:

(1) Promote, engage in or be employed at dog fighting.
(2) Receive money for the admission of another person to a place kept for dog fighting.
(3) Sell, purchase, possess or train a dog for dog fighting.
(4) Use train or possess a dog for seizing, detaining or maltreating a domestic animal.
(5) Purchase a ticket of admission to or be present at a dog fight.
(6) Witness a dog fight if it is presented as a public spectacle.

(c) The Department of Agriculture may investigate complaints and follow up rumors of dog fighting activities and may report any information so gathered to an appropriate prosecutor or law enforcement agency.

(d) Any peace officer, as defined in Section 2935.01 of the Revised Code, shall confiscate any dogs that have been, are, or are intended to be used in dog fighting and any equipment or devises used in training such dogs or as part of dog fights.

(e) Whoever violates this section, is guilty of a misdemeanor of the first degree.

(Ord. 03-07. Passed 4-7-03.)

505.31 STRICT LIABILITY.
(a) The provisions of Sections 505.01 through 505.30 are specifically intended to impose strict liability. (Ord. 03-07. Passed 4-7-03.)

505.32 ENFORCEMENT.
The Animal Control Officer and Division of Police of the City of Bay Village are responsible for the enforcement of this chapter. The powers and authority granted under this chapter shall be supplemental to the powers and authority already provided for by the Ohio Revised Code relating to local animal control regulations.

(Ord. 03-07. Passed 4-7-03.)

505.33 FEEDING OF DEER PROHIBITED.
(a) Definitions. In this section "food" means corn, fruit, oats, hay, wheat, alfalfa, salt or mineral blocks, grain, vegetables, human food scraps, commercially sold wildlife feed, birdseed, or livestock feed. "Food" does not include shrubs, live crops, plants, flowers, vegetation, gardens, trees, and fruit or nuts that have fallen from trees to the ground.

(b) Feeding of Deer Prohibited. No person shall intentionally feed deer or make food available for consumption by deer on private or public property within the City of Bay Village. A person shall be presumed to have intentionally fed deer, or made food available for consumption by deer, if the person places food or causes food to be placed on the ground or any alternative feed venue outdoors.

(c) Affirmative Defense. It is an affirmative defense to prosecution under this section if a person places food, in good faith, for the purpose of feeding domestic animals owned and located on the involved property.

(d) Penalty. Whoever violates this Section shall receive a warning on the first offense, and is guilty of a minor misdemeanor on subsequent offenses. Penalty shall be as provided in Section 501.99. (Ord. 12-37. Passed 5-7-12.)

2012 Replacement
505.99 PENALTY.
(a) Whoever violates any provision of Sections 505.01, 505.02, 505.08, and 505.09, is guilty of a minor misdemeanor and shall be punished as provided in Section 501.99(b), provided however, that any person who is cited for a violation under the above referred to sections may appear at the police station within seventy-two hours of the time appearing on such citation and enter a plea of guilty and pay a waiver fine of forty-five dollars ($45.00). After the expiration of the seventy-two hour period, any person so cited may appear at the police station and enter a plea of guilty to such charge and pay a waiver fine of sixty dollars ($60.00), provided a summons has not been issued for such person or a warrant issued for the arrest of such person. In the event of the issuance of a summons or warrant, the matter shall be docketed in Rocky River Municipal Court and the penalties shall be as provided in Section 501.99 (b).

(b) Penalties for other sections of this chapter shall be as stated in Section 501.99 (b).

(Ord. 03-07: Passed 4-7-03.)
Minutes of a Meeting of

ENVIRONMENT, SAFETY & COMMUNITY SERVICES COMMITTEE

held October 10, 2016

5:30 p.m.

Present: Councilman Paul Vincent, Chair
         Councilman Dwight Clark
         Councilman Dave Tadych

Also Present: Councilman Henderson, Councilwoman Lieske, Councilman Mace, Police Chief Spaetzel

Audience: Lydia DeGeorge, Michael Bergmann, Dennis Driscoll, Susan Murnane, Claire Banasiak, Warren Remen, Betsy Kapp

Mr. Vincent called this meeting of the Environment, Safety and Community Services Committee to order at 6:00 p.m. and thanked everyone for their attendance this evening. Mr. Vincent introduced all of the City officials present.

A complete recording of tonight’s meeting will be posted on the City’s web site, and minutes will be prepared and available to the public in the near future.

**Chapter 505 – Dog Ordinances and Related Issues**

Mr. Vincent advised that a meeting of the Environment, Safety and Community Services Committee was held on September 12, 2016 to review possible amendments to Chapter 505 as it relates to the penalties for dogs-at-large. Since that time, the Council of the City of Bay Village was able to revise and adopt a new version of the ordinance. The penalty has been changed to a more simplified, escalating penalty where the first offense is a minor misdemeanor, from there to a fourth degree misdemeanor, and then a second degree misdemeanor.

The “One Strike Provision” has been added to address a dog being out of control and inflicting injury by biting or attacking. This provision is a tool to help the police take care of irresponsible dog owners. Police Chief Spaetzel commented that this provision will be for repeat offenders who habitually do not provide by the law which requires that dogs be kept secure. Chief Spaetzel commented further that whoever is walking the dog or on their property with the dog has to have the ability to restrain the dog.

Mr. Henderson relayed a question from a resident regarding dogs being walked in the parks without a leash. Chief Spaetzel stated that the Police can certainly go through the parks and advise. This is done on a complaint basis. The Chief noted that they do not want to sit in the parks and cite people. If there is a problem they will take care of it upon notification. Mr. Vincent suggested that something be posted on the City’s website advising residents of the
procedure of notification when observing behavior that may pose a risk to others. Mr. Vincent also suggested posting signs of advisement on the control of dogs at both entrances to the Bradley Road Park, which is where this situation seems to be occurring. After further discussion, it was agreed to ask for signs to be posted at all of the City of Bay Village parks notifying owners that dogs must be leashed.

This evening’s meeting will focus on designation of dogs, the possible hiring of an animal control officer, and additional items such as tethering.

In regard to the hiring of a part time animal control officer, Chief Spaetzel advised that they have drafted a sample job description. The Human Resource Director will survey other cities in regard to duties and wages. They are considering twenty hours per week which will be very helpful to the Police Department. They will be looking for an applicant that has experience with animals, and can deal with animal owners diplomatically and with courtesy. There are certifications that can be obtained as well. The animal control officer’s duties will include wildlife issues and deer management within the City.

**Dog Designations**

Mr. Vincent stated that there may want to be further discussion about dog designations. The City of Avon Lake posts information about and photos of dogs that have been designated as Nuisance, Dangerous and Vicious on their website, which may be a consideration for Bay Village in the future. Mr. Vincent sees the designation as a way to help prevent a bite from actually happening. The other designations are for when something has already happened, when a person or animal is injured from a dog.

A nuisance dog is described in the Ohio Revised Code as a dog that without provocation and while off the premises of its owner, keeper, or harborer 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. Mr. Vincent noted that this is a preventative measure if the City does go forward with this designation to help an incident from happening. Chief Spaetzel stated that this designation as a layer below vicious and dangerous is a valuable tool. He cautioned that we would not want to go far with that and take away rights when there is no actionable behavior on the part of the dog or the owner.

Mr. Tadych stated that he worries that someone might take advantage of the designation if someone doesn’t enjoy the company of their neighbor and their dog and claims things that may not be factual. Chief Spaetzel stated that they would evaluate all the information they get and make a determination based upon the evidence. The level of proof is preponderance of the evidence. Mr. Vincent verified with the Chief that a police statement would be required and noted that falsifying evidence is under penalty of perjury. Chief Spaetzel stated firmly that without evidence they would not administer the designation. They will be fairly conservative when it comes to interpreting it because it does carry some weight. Mr. Henderson stated that the situation where the entire neighborhood has identified the same dog owner or the same dog on a repeated basis, and everyone in that neighborhood is concerned that a large, strong dog is
acting aggressively but has not bitten or killed a dog, but the neighborhood is concerned that it might, is the scenario we should think about as we are talking about either the nuisance dog designation or the potential nuisance dog designation.

Mrs. Lieske asked if any thought has been given about the designation of nuisance to include barking at times when the dog should be quiet. Chief Spaetzel stated that there is a separate ordinance relative to barking.

Dennis Driscoll, Willoway Lane, stated that he is concerned, like Mr. Henderson, that the nuisance dog in some sense include attacks on other animals, at least dogs or cats. This gets very complicated. When you look at Avon Lake, you have the nuisance designation. It took several hours to learn the difference between nuisances one and two. While you should not get too complicated, on the other hand it needs to be addressed. You could use serious injury as a level and that would keep the nuisance dog easily classified.

Mr. Vincent stated that somewhat of a simple fix to the Ohio Revised Code version of a nuisance dog would just be to add “otherwise endanger a person or companion animal or domestic animal.” Mr. Driscoll noted that this could become a very gray area, especially when you have a dog unleashed. This is why he is thinking of actual physical harm, such as a bite. Mr. Vincent stated that this would revert back to the One Strike Rule.

Nancy Brown, Wolf Road, stated that she believes, after having over 25 years’ experience in working with domesticated pets, that a dog that might appear to be acting aggressively or being extremely vocal is not necessarily a nuisance dog. That is just the genetic make-up of some dogs. Or, if a dog is left tethered, sometimes that is how they express their anxiety. Ms. Brown recommended that in the future that the ten or eleven practicing veterinarians that are residents in the City be invited to attend meetings that are specific to this. It is a very touchy area. A reactive dog is not necessarily a vicious dog.

Mr. Vincent stated that there will be discussion regarding tethering. Ms. Brown added that she has seen dogs that throw themselves against doors and windows because they are confined. This does not make them a vicious or dangerous dog.

Mr. Mace pointed out that in the current form of nuisance dog, while at home, the fourth bullet point says “restrain dog with a leash held by a person or secured to a fixed object.” Mr. Mace suggested that this language be removed when addressing tethering because it would be in conflict with restrictions regarding tethering.

Mr. Vincent displayed slides taken from the City of Avon Lake’s requirements for when a dog is designated a nuisance.

Avon Lake is currently considering whether or not to require non-retractable leashes.

Mr. Henderson stated that it is important to consider a nuisance dog and a potential nuisance dog and also declassification as one set, because they are linked. Mr. Henderson’s understanding
from the gentleman in Avon Lake that passed this set together was that the idea of having the
nuisance dog mirroring the Ohio Revised Code would not cause a conflict between the Ohio
Revised Code and the local ordinance. The potential nuisance dog legislation was to give people
in Avon Lake a locally designated definition without conflict to the Ohio Revised Code. As you
worked your way into those, if your dog exhibits behaviors that triggers those designations, you
were advised to get your dog training and also receive training yourself on how to manage your
dog and get your dog back off of those classifications. In Avon Lake’s scheme, it wouldn’t be
that if you had a nuisance dog, he would forever be labeled a nuisance dog. There was a
mechanism to get the dog off of that list. The idea on all of that is to prevent attacks and bites,
rather than be reactive.

Betsy Kapp, Crestview Drive, stated that her concern is that a dog being designated a nuisance
dog is doing dog behavior, and is not a vicious or dangerous dog. Ms. Kapp noted that her dog is
very exuberant, and will bark if he thinks something is not right. “He will not hurt anybody, but
he already has all of these characteristics in order to be declassified. He has the Canine Good
Citizen, he is 9 years old and has been in obedience training since he was 8 weeks old. He is a
good dog. I know I am not the only person in Bay that has a dog who would meet those
qualifications. I would hate for a dog like that to be identified as a nuisance dog. People in my
neighborhood know he is okay, but I am not sure people walking up and down the street know he
is okay. We have a dog across the street who is an escape artist. He has not heard a soul, but
there may be people in the neighborhood who think that dog is a nuisance. They mean nuisance
in the sense that he is loose. There are some things we have to be careful of when we talk about
the designation of nuisance dog.”

Mr. Vincent stated that he would hope that one way to protect that is by requiring that someone
has to call the police, the police have to come to the house, and the police or the animal control
officer will explain to that person the concerns. There is always the danger with a bad neighbor
or someone who is sensitive about any domesticated animal. Council had moved on the prior
legislation relatively quickly, but this isn’t something that will be presented for first reading in
short order. These types of meetings are helpful because folks can make good contributions and
inform us of their concerns.

Warren Remein asked if the current legislation that is being proposed is because of an incident.
“Did this family have an incident previously?” Mr. Remein asked in the case of people who
have had multiple occurrences, how many times have there been calls to the Police Department.
Chief Spaetzel stated that the Police Department gets a lot of animal dog calls. They have
probably had about ten bites this year so far that have been reported. This is a prevalent issue
because of the number of dogs in the City. The vast majority are responsible dogs with
responsible owners. What we are trying to do here is deal with the ones that are less responsible
or who don’t get it the first couple times. We try to advise them of the proper procedures and
laws. The Chief noted that he has a therapy dog and even though his dog visits hospitals and
nursing homes, according to a couple of the behaviors listed, someone could say his dog is a
nuisance dog. We must be very careful on how we word these things so that we are not
punishing people for some of the things that are normal dog behavior.
Mr. Remein asked if there has ever been a cat bite in the City. Chief Spaetzel stated that there have been cat bites reported.

Nancy Brown noted that many pet owners have electronic fencing for pet containment. Electronic containment is good if the dog has the collar on, the battery is working and we don’t have a power outage. However, it does not keep animals from entering the yard.

Mr. Henderson stated that his response would be that this would be considered provocation. When you look at the top of Page 2 of the Green Paper, there is a table that lays out how these are all related. This is taken from Avon Lake. It is something for us to consider, but it begins with Level 2 and covers scenarios that are not covered in the lower level by the Ohio Revised Code definition of nuisance dog or the dangerous or vicious dog. Always without provocation, if a dog is on premises, threatens a person or animal, off premises threatens an animal becomes Level 2, the bottom level. Off premises, aggressively bites an animal, becomes Level 1, and with that you get into the Ohio Revised Code definition. Mr. Henderson stated that if a dog or other animal ran onto a person’s property that would be a form of provocation.

Dennis Driscoll, Willoway Lane, stated that Level 2 becomes somewhat gray because you are talking about the Level 2 being on your property. The pre-bite or potential nuisance becomes complicated.

Mr. Henderson commented that the scenario is the situation where many people in a neighborhood have said, under affidavit and documented, swear that they observed these behaviors and they are genuinely concerned about their safety, their dog’s safety, or their children’s safety, but the dog has not yet conducted the activity that causes to be dangerous. That is why it is worth consideration.

Mr. Clark stated that it is difficult to legislate animal behavior. We are trying to change the behavior of the owners as opposed to the dogs.

Mr. Henderson noted that it is important to bring the ideas of the residents to the table for consideration, considering the incident that happened in his ward. He wants to make sure those voices are heard at this table.

Mr. Vincent asked if there should be consideration for the declassification process, if there is a nuisance, dangerous or vicious dog provision. Avon Lake does have a screening process to declassify a dog.

Another matter for consideration is whether an owner should be allowed to have more than one dog classified as dangerous or vicious. The insurance representative present at the September 12, 2016 Environment and Safety Committee meeting stated that there are certain breeds that may not be covered under the standard homeowners’ insurance, but insurance may be available from other companies that cover without being breed specific. Mr. Clark stated that the bullet point that reads that a person shall not be able to obtain a new dog without court permission makes perfect sense. Mr. Vincent stated that is the scenario where you can get a judge involved
and it is recommended by the prosecutor or law director that the person should not own another dog or possibly be on probation.

Nancy Brown commented that Goddard’s Law addresses the ownership of dogs by people who cannot properly be dog owners.

Dennis Driscoll stated that the beautiful thing that Bay Village has now in their ordinances in once there is an incident where there is an attack, or you get to the fourth misdemeanor, you are allowed to put someone on five years’ probation and put any reasonable condition.

Nancy Brown recommended that retractable leashes should not be permitted.

Three Strikes Rule

Mr. Vincent stated that the Three Strike Rule should continue to be considered with the nuisance dog classification. If the police are called three times for a complaint, the Chief can designate the dog as a nuisance dog. Mr. Henderson stated that this would cause our definition to mirror the state definition, and addresses the repetitive behavior before a bite occurs. This would give the police a tool to designate a dog dangerous before it attacks.

Nancy Brown stated that she would like to see the Bay Village Police and Fire Department receive the free training that is offered from the Cleveland Animal Protective League’s Sharon Harvey. Police Chief Spaetzel stated that all of their officers are required to go through the Ohio Peace Officers Training Association (OPOTA) training for dogs.

Susan Murnane, Willoway Lane, commented that there must be thought about labeling dogs who have done nothing wrong. There are serious consequences with dog designation. Its enforcement interferes with the enforcement by the police of dogs that really are dangerous. Many of the problems on Pellet Drive could have been mitigated had we enforced even the existing legislation, because there was a previous incident. There was an incident with an earlier dog that could have been brought to court. Mr. Vincent noted that the problem with the previous incident was that it required it be within twelve months. The incidents were fourteen months apart. The incidents were minor misdemeanors. With the new legislation recently passed, that problem has been resolved. Mrs. Murnane commented that now that the problem is solved, we don’t have to label dogs that haven’t done anything but be allowed to escape, but aren’t dangerous.

Mr. Henderson reminded everyone that five separate people at the public meeting following the Pellett Drive incident expressed extreme concern. Mr. Vincent commented that the nuisance provision or the at-large three strike rule are to hopefully allow enforcement before the bite takes place. Chief Spaetzel stated that three citations finding the owner guilty has basically never happened. The fact of designating a dog a nuisance dog because of that rule would probably occur rarely, if ever.
Create a webpage of Nuisance, Dangerous and Vicious Dogs

Mr. Vincent stated and he has received a lot of good feedback from folks who think this is a good idea. It is good to know where these dogs are located as you walk through the town. This webpage would be a helpful tool for residents. Chief Spaetzel stated that this would involve taking what is already public information and posting it in a manner that someone can quickly look at. It has the benefit of potentially preventing serious injury and providing some safety and peace of mind for people who are walking. It would be driven by the classification of the dog.

Banning Tethering

Tethering your dog for long periods of time can damage them. Our provision is outdated and this is something we can look into. Chief Spaetzel stated that he is definitely in favor or banning tethering. It is a bad situation for the dogs and the owners. If someone has a dog and it is tethered all day long that person should probably not have a dog.

Nancy Brown commented that there was an incident where a tethered dog was forgotten about in the extreme heat and died. There was also an incident of a dog tethered outside in the extreme cold and the police had to remind the owners at 1 a.m. that it was minus 25 degrees outside and the dog should not be tethered. It needs to be addressed. The City of Cleveland has legislation against tethering.

Retractable Leashes

Chief Spaetzel stated that not allowing retractable leashes will be difficult to enforce for the most part. The Chief commented that he does not use them with their dogs because of the lack of being able to control the animal. Chief Spaetzel stated that he would seek further information about this before proceeding.

Mr. Tadych asked if there have been failures with these leashes. Mayor Ebert stated that there have been many complaints of dogs without leashes in the city parks and on the walking trails. Mr. Vincent suggested that signage be posted in the city parks. Mayor Ebert will request that signs be posted at all the city parks.

Discussion followed concerning the use of the Columbia Road Park by many dog owners with their pets. Mr. Michael Bergmann, 25436 Lake Road, next to the Columbia Road Park, stated that he has lived there for 18 years and the situation has become unbearable. Thirty dogs in one hour were counted recently. The City has 860 square feet of sand. The dogs trespass onto private property and the Police Department can’t do much because it is not posted. Mr. Bergmann tried to post no trespassing signs and was told by the Building Department he could not post it or get a permit because there wasn’t an official ordinance. Chief Spaetzel and Mayor Ebert stated that Mr. Bergmann can post no trespassing signs, and encouraged Mr. Bergmann to post the signs.
Mayor Ebert reiterated that he will have signs prepared for posting for the Columbia Road Park, the Cahoon Memorial Park Walking Trail, Bradley Road Park, and Reese Park. Mr. Mace asked if the Avon Lake rules would apply to the jointly owned Walker Road Park. Mr. Ebert will confer with the Avon Lake mayor.

Mrs. Lieske asked if warnings by the police are logged in for record purposes. Chief Spaetzel stated that generally the officers know and the dispatchers due a history check. If it pops up that they have been advised previously, they will be cited.

Mr. Driscoll suggested that there needs to be further review of the “without provocation” definition. It only deals with individuals or persons and not with animals.

**Medical Marijuana**

Mr. Vincent stated that the Environment, Safety and Community Services Committee meeting will be educated this evening on the subject of Medical Marijuana and hear from both opponents and opponents. From this exercise it is hoped that Council will be better informed regarding their decision as how to proceed. It is recommended that questions be asked about statewide legislation and our own ordinances that we are considering.

**Mr. Tom Haren, Attorney at Seeley, Savidge, Ebert and Gourash**, introduced himself stating that he was involved in the drafting of House Bill 523 and testified before the Senate Subcommittee that considered the bill in Columbus. Mr. Haren serves as a resource to the position of entrepreneurs and stakeholders.

**Mr. Jeff Capretto of the Westshore Enforcement Bureau (WEB)** was present to address the Environment, Safety and Community Services Committee on behalf of law enforcement opposed to Medical Marijuana until such time as the state drafts legislation for more control for those who are in need of it for illness purposes. They have serious concerns about the safety and impaired driver situations in individual communities where people are using Marijuana.

**Amanda Luckay Nehoda, an Activist representing Shango Premium Cannabis**, introduced herself to the committee.

**Darrin Farrow**, who runs state licensed facilities out west for the past four or five years, presently in Oregon and Colorado, was the last guest who presented himself by introduction to the committee.

Mr. Vincent called upon Tom Haren to inform the committee and the audience how Medical Marijuana passed in the State of Ohio.

Mr. Haren stated that in 2015, Issue No. 3 was on the ballot sponsored by a group called Responsible Ohio that would have set up what a lot of people referred to as a cartel. There was a group of ten large scale Marijuana cultivators. They were all investors, people who were sponsoring the legislation. They were to be the ones to get the licenses. It failed by a 2-1 margin
at the ballot. By and large, that was not because Ohio voters were opposed to the idea of Medical Marijuana; it was because they did not like the method of which the ballot initiative was going to make that a reality. There was subsequent polling after that that showed a huge majority of Ohio voters supported Medical Marijuana. There was another ballot initiative that came to light sponsored by an organization called the Marijuana Policy Project, one of the large organizations in the country that sponsors these ballot initiatives. They are huge on the activist front. We also saw some movement from the legislature. A special task force developed at the State House level. A number of people were appointed to that to consider how the legislature should go about utilizing Medical Marijuana. We also saw two state senators, Ken Yuko, and Dave Burke who went on a listening tour around the state with a series of town halls and public events where they would hear from people both in favor and opposed to Medical Marijuana.

In the spring, the General Assembly announced and introduced a bill, House Bill 523 which set up what is now codified in Chapter 3796 of the Ohio Revised Code. It was subject to a lot of debate, there were a lot of changes as the bill went through the drafting process, but basically what we are left with is Ohio will license Medical Marijuana cultivators, processors, dispensaries and testing facilities over the course of the next few years. In September of 2018 there will be a full regulatory structure in place and we will have a Medical Marijuana operating market for Ohio patients where they can go to a dispensary and purchase Medical Marijuana for medical purposes.

The statute identifies twenty-one qualifying conditions. If someone has one of those conditions they can get a recommendation from a physician to purchase Medical Marijuana. The state has delegated virtually all of the regulatory authority to either the Department of Commerce or the State Board of Pharmacy. The Department of Commerce is going to regulate the cultivators and processors, and the State Board of Pharmacy is going to write regulations for dispensaries. The regulatory process will be complete by September of 2017. The regulations for cultivators will be complete by May of 2017. That was basically done because there is going to be some lead time once the entities start operating for the cultivators to grow and harvest their crops before they are processed and eventually sold in the dispensaries. It is a big concern in Columbus that there would be a harvest sitting there that can’t be sold. Mr. Haren would expect that once there are cultivators it will be short order that there will be licenses for processors and dispensaries. There is nothing in the statute about requiring Ohio based cultivators. A lot of people expect that there will be some type of residency requirement.

Mr. Vincent asked if there is any litigation coming that might stop the Executive Branch from moving forward. Mr. Ebert stated that there is none at this time, but that obviously could be an issue. Mr. Haren noted that at this time it is expected to have the full regulatory structure in place by September of 2018, but that time could be extended if needed. As they write the rules, they are tasked under the statute to consider best practices from other states. There are people from our state going to other states already taking a look at their regulatory structures. They were recently in Illinois. There are twenty-six states that have legalized Medical Marijuana for medical purposes.
Mayor Ebert stated that there has been a lot of discussion about moratorium versus legislation by the Ohio Municipal League and the Ohio Municipal Attorneys Association. The consensus now is that if you want to prohibit you are better off going to the legislation process than a moratorium. The thought process is that moratoriums are less constitutionally enforceable than legislation that addresses the issues. Legislation can always be amended or repealed at a later date.

Mr. Jeff Capretto, Westshore Enforcement Bureau (WEB) distributed information and advised that he has 46 years of law force enforcement experience and due to his vast experience in enforcing narcotics laws feels that Marijuana is a gateway drug. Now, we are getting Medical Marijuana which is a hallucinogenic. There have been many cases in the suburbs of issues of people that are under the influence of Marijuana specifically. There is a lot of it coming down the interstate from Michigan into Ohio. There was a case two months ago where Medical Marijuana ended up in the hands of a middle school child in Rocky River. It is being distributed by people throughout our six western suburbs. The opioid epidemic and the Heroin issue is the number one concern, but right behind the Heroin is the Marijuana. The Medical Marijuana is coming from the west coast, Colorado, Los Angeles, and Oregon, and more closely from Michigan. Alcohol is considered a problem for causing impaired drivers, but it frightens me to make things legal that impairs their ability to drive a motor vehicle or function at work properly without dangerous conditions at construction sites. Mr. Capretto stated that the whole thing terrifies him. The message we are sending to our grandchildren that Marijuana is medicine is a very bad message. I have seen too many cases where Medical Marijuana becomes recreational Marijuana and it is abused. A police officer would not deny anybody who is terminally ill or who has glaucoma of using Marijuana for medicinal purposes, but we need more control. Medicines you get in a local pharmacy are FDA approved and go through a variety of a number of tests and research. Marinol is available in pill form for patients as prescribed by a physician.

As related to the comment about Medical Marijuana coming in illegally from Michigan, Mr. Vincent asked Mr. Capretto what he sees as Michigan doing that is wrong. Mr. Capretto stated that it is all about control. A man from Elyria arrested with seven pounds of Marijuana most recently said that the medicinal Marijuana stores within a strip mall are illegally dispensing from the back doors. The Colorado reports and Michigan reports indicate fatalities and homelessness. What it does to the public in general is very frightening. What it does to individuals who use it is contained in the material Mr. Capretto distributed this evening.

Mr. Capretto stated that there have been marijuana edibles seized on the street that look like candy. Mr. Haren stated that some states have banned anything that looks like something a child would be attracted to. Ohio’s law does contain explicit language in the statue that any of the edibles cannot be made in a manner that is attractive to children. That will be determined by the Board of Pharmacy, but by all accounts we will not see anything like Gummy Bears. You are more likely to see lozenges for somebody who has cancer of the throat and can’t swallow.

Darren Farrow commented further that the situations spoken about by Mr. Capretto were an illegal activity of marijuana distribution. As of September 8, 2016, it is legal in the community to use Medical Marijuana. Wherever they go to buy it, they are going to use it. If you make
them drive too far and you are really concerned about them driving under the influence, you will make the situation worse by making them go ten miles up for medication and then driving back to Bay Village. The question is do you want a dispensary in your community, and how many. It is going to be here regardless, the law is already passed. Do you offer it so that people don’t have to drive too far and how do you work with the police and the school system. The person that pays for that license is not going to sell to minors. It will be lab tested and very well regulated. Mr. Farrow stated that he personally does not know anyone who has paid hundreds of thousands of dollars for licensing security that sells out the back door. They are not going to jeopardize the money they have made in other ventures by selling to minors.

Amanda Luckay Nehoda stated that she is an activist and has worked on several campaigns and is trying to educate at this point and make sure cities are regulated properly.

Darren Farrow stated that unfortunately you can manipulate numbers to come out anyway you like. Colorado has one of the lowest unemployment rates. The Cannabis industry has saved their commercial real estate market. There are more people moving there for jobs. If you look at driving fatalities they have gone up. If you look at the percentage based on population, they have gone down. When they first legalized Cannabis they didn’t know at the time if it was going to be a complement or a replacement. The fear was that if you drank too much time and drive borderline when you shouldn’t be, and get high on top of that then you are going to be a worse driver. The reality now that we know two and one-half years later is that the fatal driving statistics have gone down. Population has gone up so there are more accidents, but if you look at the percentage it has gone way down. It has ended up being a replacement and not a complement. People who sell alcohol don’t like the legalization of Cannabis because it drastically takes away from their sales of alcohol. When a state legalizes Cannabis the accidental overdoses in that state go down 25% based on prescription drugs. Eighty percent of the people who are addicted to opiates came off of prescription drugs. Most people are not getting on hard drugs because of Cannabis. They are actually using Cannabis as a treatment to get people off of opiates. It is legal and it is not going away. How do we make it safe in the community?

Mr. Farrow stated further that Marinol is a very poor substitute. It is a pharmaceutical synthetic. Any cancer specialist will tell you behind closed doors that if you can get your relative some Cannabis it works much better than Marinol, and Marinol is so expensive I wouldn’t recommend you do it. There is a family that moved out of Bay Village a few years ago to Colorado to treat their daughter’s seizures with Medical Marijuana.

When it is legal it does push the cartels out of the states typically. The prices are about the same as the black market, sometimes less, and it is all lab tested so you know exactly that you are getting clean medicine. If people need the medicine they are going to get a prescription and buy it through legal channels.

Amanda Luckay stated that doctors are being trained in Ohio, There are hospitals and doctors that are on board with it. Ms. Luckay explained that the reason she became interested was because of an uncle that had cancer.
Mr. Vincent stated that his interest in deciding whether or not to vote for prohibiting cultivators and dispensaries in town doesn’t mean that he is against Medical Marijuana. It is more whether he is comfortable with something that may happen eighteen months down the road that we don’t know what it will look like. This is something we want to do in the meantime as a placeholder and a safety measure to make sure something doesn’t come in or out of our town that we do not want.

Mr. Mace addressed Mr. Farrow noting that he made reference to cultivation, processing, lab values and amount of THC. Mr. Mace asked Mr. Farrow what kind of product he is putting out. “Is it a bud and something that needs to be smoked, or are you dealing with extracts?”

Mr. Farrow stated that their lab consists of a chemist and an aeronautical engineer who do concentrates. There is really not anything that they cannot produce. They manufacture a number of concentrates for people who need higher dosage. Right now all they do is on the medical market. Oregon is migrating from the medical market to an adult use, but up to this point they only manufacture for the medical market.

Mr. Clark asked Mr. Farrow about the experience of other states who have legalized Medical Marijuana. Mr. Farrow stated that the largest demographic is the population of ages 55 and over and in states with retirement communities cannabis will do wonders. A combination of what works in Colorado and Nevada rules things out because they restrict how many licenses and it can be overdone by issuing license after license. Nevada allows ten percent of the pharmacies in the state to be dispensaries. That seems to work well. If there is a need for additional supply, the percentage can be increased. For example in that type of model, if Westlake has 12 pharmacies, the ten percent rule would allow one dispensary.

Mr. Farrow explained that he started looking at marijuana on the medicinal side for personal reasons after losing a friend. He then looked at how it affects the community because he has children. After looking at it thoroughly he felt obligated to help people.

Mr. Haren stated that the state will mirror the state liquor license regulations in their Medical Marijuana regulations. Under the statute we know that the Board of Pharmacy is going to geographically distribute dispensaries, looking at population density. There will be geographic distribution and there is language that it is supposed to be distributed in an effort to insure patient access. The first draft of regulations will be available by February of 2017. The cultivator and processor regulations will look similar.

Mr. Tadych asked how many of the twenty-six states that have legalized Medical Marijuana are in the predicament that Ohio is in that the regulations have not been prepared. He was informed that Ohio and Pennsylvania are the two states with regulations still to be prepared.

Mr. Henderson stated that he would like to conclude with another perspective. As all know, he works in the health care industry. Mr. Henderson has shared a copy of the Federal Registry from August 12, 2016 in the Council packets, a very recent document from the Department of Health and Human Resources and the Drug Enforcement Agency. He read a cover letter that he
included with the document he provided. Everything Mr. Henderson quoted in his cover letter is a direct and exact quote from the recent Federal Register Document published just this past summer.

Mr. Henderson read his cover letter as follows:

"October 10, 2016

Dear Colleagues,

I invite you to review the August 12, 2016 Federal Register documenting the U.S. Department of Health and Human Services (DHHS)'s conclusion that "marijuana has a high potential for abuse, has no accepted medical use in the United States, and lacks an acceptable level of safety for use even under medical supervision."

As a result of this conclusion, the U.S. Food and Drug Administration (FDA) recommended "continued control of marijuana in Schedule I of the Controlled Substances Act" and the U.S. Department of Justice's Drug Enforcement Agency (DEA) concluded that "there is no substantial evidence that marijuana should be removed from Schedule I." Accordingly, on July 19, 2016, the DEA denied a petition to reschedule the drug.

These conclusions were based on established standards applicable to all drugs, including a five-part test used to determine "medical use." Marijuana failed all five parts of that test: "the drug's chemistry is not known and reproducible; there are no adequate safety studies; there are no adequate and well controlled studies proving efficacy; the drug is not accepted by qualified experts; and the scientific evidence is not widely available."

The FDA reviewed 566 scientific articles in developing its conclusion. None of these studies proved efficacy of marijuana for any therapeutic indication. However, "the opportunity for scientists to conduct clinical research with marijuana exists; and there are active investigational new drug applications for marijuana."

Indeed, two drugs containing synthetic "cannabinoid compounds that are structurally related to the active components in marijuana" have been approved by the FDA. Marinol and Cesamet were approved for the treatment of nausea and vomiting associated with chemotherapy in 1985. Marinol’s indication was extended to include the treatment of anorexia for patients with acquired immunodeficiency syndrome (AIDS) in 1992.

The FDA explains that marijuana contains at least 525 natural constituents and 100 cannabinoids. The two drugs approved by the FDA with synthetic cannabinoid compounds that are structurally related to the active components in marijuana have an acceptable potential for abuse, an accepted medical use and an acceptable level of safety. Marijuana, in contrast, does not. "Marijuana is not an FDA-approved drug product."

The FDA notes that state-level medical marijuana laws "do not have sufficient collection of data related to medical treatment, including efficacy and safety" and that such laws "do not provide evidence of a consensus among qualified experts that marijuana is safe and effective for use in treating a specific, recognized disorder" due to legislators' lack of "scientific training and experience to evaluate the safety and effectiveness of drugs."

In my opinion, the FDA's standards for evaluating the safety and efficacy of drugs represents the best and most widely-accepted standard for such a process in the United States. I believe subverting the FDA's process is unsafe and unnecessary. FDA-approved drugs with compounds that are structurally related to components in marijuana have been available for over 30 years. New drugs containing compounds that are structurally related to the active components in marijuana, such as Epidiolex, may receive FDA approval in the future.

Therefore, to protect the public health, safety, and welfare, I support prohibition of the cultivation, processing and distribution of medical marijuana in Bay Village pursuant to Ohio HB 523 Section 3796.29. If this Council
will not support a prohibition, I would support a moratorium until medical marijuana is approved by the FDA so that we can be assured that it is safe and effective since, currently, the FDA concludes that it is not.

Thank you,

Tom Henderson
Ward 4 Representative, City of Bay Village City Council

Mr. Henderson stated that he tries to view things in a blend of facts, opinions and beliefs. Facts are universal in nature. They are something that any two people need to agree on. And, if they don’t, one is right and one is wrong. Opinions are personal in nature. Two people of good will can disagree about an opinion and that’s fine. Beliefs, like a fact, are something that will either be true or false in the future. It is not known now.

The simple fact is that Medical Marijuana has a high potential for abuse, no accepted medical use in the United States and lacks acceptable level of safety for use, even under medical supervision.

The opinion is that the FDA process for determining these types of issues is most widely accepted in vast areas.

My belief is in passing prohibition to be consisting with maximizing protection of public safety and welfare.

Lydia DeGeorge addressed Tom Henderson stating that his points are well taken but the fact is that Medical Marijuana is now legal in Ohio. “The comment I keep hearing from different members of the table here is that because Ohio hasn’t really put there regulations in place we don’t know what it is going to look like. What is your worst place scenario of what a dispensary or cultivating in the City is going to look like that you have to get in front of?”

Mr. Vincent stated that it sounds like the way Michigan has done it isn’t great and it is not well controlled. “I want to know what it looks like and what the control is. If I do decide to vote for this prohibition I don’t see the harm in prohibiting it until I do know what it looks like.”

Mr. Henderson stated that he wants to make sure we protect the children in Bay Village. “It has been shown that if affects children more so than adults.”

Mr. Vincent thanked everyone for their attendance. There being no further business to discuss, the meeting adjourned at 7:55 p.m.

Paul Vincent, Chair
Joan Kemper, Secretary