

ORDINANCE NO. 18-48
INTRODUCED BY: Mr. Mace

First Reading June 4, 2018
Second Reading June 11, 2018 (As amended)
Adoption - June 18, 2018 - Amended by Reading
Section 505.20 (B) (5) Nuisance Dog
changed to Dangerous
or Vicious Dog

ORDINANCE
ENACTING REVISED CODIFIED ORDINANCE
CHAPTER 505 – ANIMALS AND FOWL

NOW THEREFORE, BE IT ORDAINED by the Council of the City of Bay Village,
Ohio:

SECTION 1. That the Codified Ordinances of the City of Bay Village are hereby
amended by enacting revised Chapter 505 to read as follows:

“CHAPTER 505 - ANIMALS AND FOWL

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

CROSS REFERENCES

Owner or keeper liable for damages - see Ohio R.C. 951.10

Dog registration - see Ohio R.C. 955.01

505.01 - Definitions.

- (a) “Aggressively bite” means any bite, not committed in play that causes a physical injury, including a bruise, puncture, tearing of the skin or laceration.
- (b) “Boarding kennel” has the same meaning as in Ohio R.C. 956.01.
- (c) “Classified dog” means a dog that has been previously designated as a nuisance, dangerous, or vicious pursuant to this Chapter, Ohio R.C. 955.11, or comparable ordinance.
- (d) “Companion animal” means any animal that is kept inside a residential dwelling and any dog or cat regardless of where it is kept, including a pet store as defined in Ohio R.C. 956.01.
“Companion animal” does not include livestock or any wild animal.
- (e) “Cruelty,” “torment,” and “torture” include every act, omission, or neglect by which unnecessary or unjustifiable pain or suffering is caused, permitted, or allowed to continue, when there is a reasonable remedy or relief.
- (f) “Dangerous dog”
 - (1) means a dog that, without provocation, and subject to (f)(2) of this section, has done any of the following:
 - A. Caused injury, other than killing or serious injury, to any person;
 - B. Killed another dog, cat or other domestic animal while off the premises of the owner;
 - C. Been the subject of a third or subsequent violation of Ohio R.C. 955.22 (C).
 - (2) does not include a police dog that has caused injury, other than killing or serious injury, to any person or has killed another dog while the police dog is being used to assist one or more law enforcement officers in the performance of their official duties.
- (g) “Dog kennel” means an animal rescue for dogs that is registered under Ohio R.C. 956.06, a boarding kennel or a training kennel.
- (h) “Domestic animal” includes livestock; other animals that through long association with humans have been bred to a degree resulting in genetic changes affecting the temperament, color, conformation, or other attributes of the species to an extent that makes them different from nondomestic animals of their kind.
- (i) “Electronic pet containment system” means an electronic fence or electronic collar that controls the movement of a dog by emitting an electrical shock when the animal wearing the collar nears the boundary of the owner’s, keeper’s or harbinger’s property. The collar may be controlled manually by a person or automatically in a predetermined manner. Dogs confined to the residential property of the owner, keeper, or harbinger by an electronic fence or an electronic collar shall not be permitted to be nearer than 10 feet away from any public sidewalk or property line that is contiguous to neighboring property. All owners, keepers or harborers of dogs who use an electronic fence shall clearly post their property to indicate to the public that a dog is confined to the property by an electronic fence or electronic collar.

- (j) “Farm animals” means chickens, ducks, geese, or any other fowl, sheep, goats, horses, cattle, swine, or any other hoofed animal
- (k) “Federal animal welfare act” means the “Laboratory Animal Act of 1966”, Pub. L. No. 89-544, 80 Stat. 350 (1966), 7 U.S.C.A. 2131 et seq., as amended by the “Animal Welfare Act of 1970”, Pub. L. No. 91-579, 84 Stat. 1560 (1970), the “Animal Welfare Act Amendments of 1976”, Pub. L. No. 94-279, 90 Stat. 417 (1976), and the “Food Security Act of 1985”, Pub. L. No. 99-198, 99 Stat. 1354 (1985), and as it may be subsequently amended.
- (l) “Fencing” means any permanent enclosing structure including walls, privacy screens, sight barriers, or dog runs. Retaining walls are specifically excluded from this definition. All fencing must comply with City Ordinance Chapter 1163 Fence Regulations, Residence Districts.
- (m) “Hunting” means pursuing, shooting, killing, following after or on the trail of, lying in wait for, shooting at, or wounding wild birds or wild quadrupeds while employing any device commonly used to kill or wound wild birds or wild quadrupeds whether or not the acts result in killing or wounding. “Hunting” includes every attempt to kill or wound and every act of assistance to any other person in killing or wounding or attempting to kill or wound wild birds or wild quadrupeds.
- (n) “Impounding agency” means a county humane society organized under Ohio R.C. 1717.05, an animal shelter, or a law enforcement agency that has impounded a companion animal in accordance with this section.
- (o) “Menacing fashion” means that a dog would cause any person being chased or approached to reasonably believe that the dog will cause physical injury to that person.
- (p) “Nuisance dog” means a dog that without provocation and while off the premises of its owner, keeper, or harborer:
 - (1) Chased or approached a person in either a menacing fashion or an apparent attitude of attack,
 - (2) Attempted to bite or otherwise endanger any person,
 - (3) Aggressively bites any domestic animal.
- (q) “Owner,” “keeper,” or “harborer” means any person who owns, has custody and physical control, or has physical charge or care of an animal, even if temporary in nature.
- (r) “Physical harm” means any injury, illness, or other physiological impairment, regardless of its gravity or duration.
- (s) “Police dog” means a dog that has been trained, and may be used, to assist law enforcement officers in the performance of their duties.
- (t) “Practice of veterinary medicine” has the same meaning as in Ohio R.C. 4741.01.
- (u) “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.
- (v) “Responsible person” means a person of sufficient size, strength and knowledge to control a companion animal.
- (w) “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.
- (x) “Serious physical harm” means any of the following:
- (1) Physical harm that carries an unnecessary or unjustifiable substantial risk of death;
 - (2) Physical harm that involves either partial or total permanent incapacity;
 - (3) Physical harm that involves acute pain of a duration that results in substantial suffering or that involves any degree of prolonged or intractable pain;
 - (4) Physical harm that results from a person who confines or who is the custodian or caretaker of a companion animal depriving the companion animal of good, wholesome food and water that proximately causes the death of the companion animal.
- (y) “Tether” means a rope, chain, cord, dog run or pulley, or similar restraint for holding an animal in place, allowing a radius which it can move about free.
- (z) “Training kennel” means an establishment operating for profit that keeps, houses, and maintains dogs for the purpose of training the dogs in return for a fee or other consideration.
- (aa) “Trapping” means securing or attempting to secure possession of a wild bird or wild quadruped by means of setting, placing, drawing, or using any device that is designed to close upon, hold fast, confine, or otherwise capture a wild bird or wild quadruped whether or not the means results in capture. “Trapping” includes every act of assistance to any other person in capturing wild birds or wild quadrupeds by means of the device whether or not the means results in capture.
- (bb) “Vicious dog” means a dog that, without provocation has killed or caused serious injury to any person. “Vicious dog” does not include either of the following:
- (1) 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;
 - (2) 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 harbinger of the dog.
- (cc) “Wild,” “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:
- (1) Venomous creature, including spiders and reptiles;
 - (2) Constrictor snakes;
 - (3) Omnivorous or carnivorous animal that weighs more than twenty five (25) pounds and which is a predator in its natural habitat;
 - (4) 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;
 - (5) 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, and crocodilians, including hybrids.

- (dd) “Wild animals” includes mollusks, crustaceans, aquatic insects, fish, reptiles, amphibians, wild birds, wild quadrupeds, and all other wild mammals, but does not include domestic deer.
- (ee) “Without provocation” means the dog was not:
 - (1) Being abused, teased, tormented, or physically threatened or injured by a person;
 - (2) Being abused or physically threatened or injured by an animal;
 - (3) Being aggressively teased or tormented by an animal;
 - (4) Directing its behavior at a trespasser on the property of its owner, keeper, or harborer;
 - (5) Reasonably coming to the defense of a human or domestic animal within the immediate vicinity of the dog and under perceived threat; or
 - (6) Directing its behavior at a domestic animal that was running at large and unattended by some person.

505.02 - Dogs, cats, and other animals running at large.

- (a) No person, being the owner, keeper or harbinger 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 streets, public ways, public places, parks or upon the private premises of any person other than the owner, keeper or harbinger, except when accompanied by a responsible person, upon a leash and under control. 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) 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, contained in a fence, within an electronic pet containment system, 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.
- (c) Penalties.
 - (1) Whoever violates this section is guilty of a minor misdemeanor on the first offense, a misdemeanor of the fourth degree on the second offense, and a misdemeanor of the second degree on the third or any subsequent offense. Upon a third conviction an owner may be subject to the dangerous dog provisions as outlined in this Chapter.
 - (2) Notwithstanding division (c)(1) of this section, if the animal bites a domestic animal without provocation as a result of violation of this section, then whoever violates this section is guilty of a misdemeanor of the third degree.
 - (3) Notwithstanding division (c)(1) of this section, if the animal bites a human without provocation as a result of a violation of this section, then whoever violates this section is guilty of a misdemeanor of the second degree.
 - (4) Notwithstanding division (c)(1) of this section, where the animal bites a human or domestic animal without provocation and causes serious injury as a result of a violation of this section, then whoever violates this section is guilty of a misdemeanor of the first degree.

505.03 - Animals prohibited in the City.

- (a) No person shall own, harbor, or keep any farm animal within the City.

- (b) No person shall own, harbor, or keep any wild, dangerous, or undomesticated animal within the City.
- (c) Whoever violates subsection (a) hereof is guilty of a minor misdemeanor. Whoever violates subsection (b) 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 of violation may be deemed a separate offense.

505.04 - 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.

505.05 - Abandoning animals.

- (a) No owner or keeper of a dog, cat or other domestic animal shall abandon such animal.
- (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.

505.06 - 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 is guilty of a misdemeanor of the first degree.

505.07 - 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, deer 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 Ohio R.C. 959.04.
- (b) Whoever violates this section is guilty of a misdemeanor of the second degree.

505.08 - Cruelty to animals generally.

- (a) No person shall:

- (1) 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;
- (2) 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;
- (3) Carry or convey an animal in a cruel or inhuman manner;
- (4) Any person charged with Neglect of Animals (C.O. 505.09) who upon notification did not resolve the problem immediately will be charged with this section.

(b) Whoever violates this section is guilty of a misdemeanor of the second degree.

505.081 - Cruelty to companion animals.

- (a) 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.
- (b) No person who confines or who 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 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.
- (c) 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 in any of those specified manners.
- (d) Subsections (a), (b) and (c) 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. 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. 4741.
- (e) Penalties
- (1) Whoever violates subsection (a) 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 (b) 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 (c) hereof is guilty of a misdemeanor of the first degree.
 - (4) 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.
 - (5) 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.
 - (6) 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.

505.09 - Neglect of animals.

- (a) 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, odor, insect or rodent infestation. Anyone who keeps an animal must provide the following:

- (1) Clean potable drinking water at all times, and suitable food of sufficient quantity to ensure normal growth and maintenance or normal body weight.
- (2) Food and water receptacles kept clean and disinfected and located so as to avoid contamination by feces.
- (3) Necessary veterinary medical care when the animal exhibits signs of pain or suffering.
- (4) Provide the animal shelter to ensure protection from elements, which is appropriate to the animal's 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.

- (b) 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 harbinger will be charged with cruelty to animals under Ohio R.C. 959.13. A second offense, or a first offense that is left unresolved, shall constitute a second offense under cruelty to animals, Ohio R.C. 959.13.

505.10 - Tethering animals

- (a) No person shall tether any animal under these circumstances:
- (1) A heat or cold advisory has been issued by a local or state authority or national weather service.
 - (2) A severe weather warning has been issued by a local or state authority or national weather service.
 - (3) Between the hours of 10 pm to 6 am.
 - (4) The tether is attached by means of pinch, prong, or choke-type collar or if the collar is unsafe or is not properly fitted.
 - (5) The tether allows the animal to touch the fence, cross the property line, or cross onto public property.
 - (6) The tether may cause injury or entanglement.
 - (7) The tether is made of material that is unsuitable for the animal's size and weight or that causes any unnecessary discomfort to the animal.
 - (8) No owner or occupant is present at the premises.
 - (9) The tethered animal cannot move about free of fecal or urine matter, or otherwise unsanitary or unsafe conditions.
 - (10) No person shall tether any animal on public property or private property open to the public and leave unattended for any reason.
- (b) Whoever violates this section is guilty of a minor misdemeanor for the first offense, a misdemeanor in the fourth degree for a second offense, and a misdemeanor in the first degree for the third offense or any subsequent offense. If an animal becomes sick or injured as a result of a violation of this section, then whoever violates this section is guilty of a misdemeanor of the first degree. Each and every day during such period of noncompliance with this section may be deemed a separate offense.

505.11 - Impounded animals.

- (a) In order to claim and redeem any impounded animal from the City kennel, the owner, keeper or harbinger thereof shall submit proof of ownership to the law enforcement officer or Animal Control Officer. Further, as consideration of release, the owner, keeper or harbinger of a dog, shall show proof of county dog license registration of that animal. Finally as a condition of release, the owner, keeper or harbinger shall pay all fees and cost in connection to the impoundment.
- (b) The following fees and costs shall accrue with regard to the impoundment of animals:
 - (1) Seizing and impounding of an animal: \$25.00
 - (2) Kennel fee for feeding and housing, per 24-hour period: \$15.00 or prevailing kennel/boarding fees, whichever is greater. If animal is picked up within 24 hours of notification, kennel fees will be waived.
- (c) Impound fees will be placed in the appropriate fund for the use of buying kennel supplies.

505.12 - 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.

505.13 - Unsanitary conditions

- (a) No person shall own any animal in the City so as to create noxious or offensive odors or unsanitary conditions that cause a risk to the health, comfort, or safety of the public.
- (b) No owner or keeper or person having custody or control of any animal shall allow or permit such animal to defecate 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. It shall be the duty of all persons having control of animal to immediately remove all feces and dispose of same in a sanitary and proper manner, in order to carry out the intent of this section.
- (c) Whoever violates this section is guilty of a minor misdemeanor.

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.

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 Chief of Police 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 Chief of Police. 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 Chief of Police and shall be at the expense of the owner or harbinger. Quarantine shall continue until the Chief of Police 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 Chief of Police 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 Chief of Police 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 Chief of Police made pursuant thereto, nor fail to immediately report to the Chief of Police any symptoms or behavior suggestive of rabies.
- (c) Whoever violates this section is guilty of a minor misdemeanor.

505.16 - Determination of nuisance, dangerous, and vicious dogs.

- (a) Whenever a complaint is made to the Police Department or the Animal Control Officer of the presence of a nuisance, 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 a nuisance pursuant to this Chapter upon proof by a preponderance of the evidence of any of the following:
 - (1) Without provocation 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;
 - (2) Without provocation, and while off the premises of its owner, keeper, or harbinger, aggressively bites any domestic animal.
- (c) 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 domestic animal.
- (d) The Chief of Police shall determine that a dog is vicious pursuant to this Chapter upon proof by a preponderance of the evidence that without provocation, the dog has killed or caused serious injury to any person.
- (e) If the Chief of Police determines that a nuisance, dangerous, or vicious dog is being kept within the City, the Chief of Police 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 in person to the owner of the dog, or 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 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.

- (f) The notice required by this section (e) hereof shall state, in brief, the findings with respect made to the nuisance, 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.
- (g) Police dogs are exempt from these provisions for all actions occurring in the course of their duties.

505.17 - Appeal procedure.

- (a) The owner of a dog who has been served with a notice pursuant to Section 505.16(e) 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 nuisance, dangerous, or vicious as defined in this Chapter.
- (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.

505.18 - Registration of nuisance, dangerous, or vicious dogs.

- (a) Any person owning, keeping, possessing, maintaining or having the care, custody or control of a nuisance, dangerous, or vicious dog shall:
 - (1) Register the dog with the police department by January 31st of each year, and whenever a dog is newly obtained and provide two color photographs of the dog annually.
 - (2) At the time of registration provide proof of liability insurance as required by Section 505.19.
 - (3) Identify the dog by having a microchip implanted at the owner's expense.
 - (4) Post on the premises, in a conspicuous place and visible from all areas of customary or actual public access, at least one City-issued sign available, upon payment of thirty dollars (\$30.00) for each sign, from the Police Department. The sign shall include the wording for the designated classification as a "NUISANCE DOG", "DANGEROUS DOG", or "VICIOUS DOG". This sign shall be maintained and remain in place during the possession of the animal.
 - (5) Notify the Police Department within seventy two hours, if the nuisance, dangerous, or vicious dog has died, been sold or donated and provide the Police Department with the name, address and telephone number of the new owner. The owner must advise the transferee of the dog's classification prior to the transfer of ownership.
 - (6) Notify the Police Department immediately if the classified dog is loose, unconfined, attacks another domestic animal or has bitten a person or domestic animal.
- (b) Whoever fails to register a nuisance, 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.

505.19 - Insurance for nuisance, dangerous, and 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 three hundred thousand dollars (\$300,000) because of damage to property or bodily injury to or death of a person caused by the vicious dog.
- (b) No owner of a nuisance or dangerous 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.
- (c) Such insurance noted in subsection (a) and (b) must be obtained within 14 calendar days of the final determination of the dog as a nuisance, dangerous, or vicious dog. The owner shall provide a copy of the policy for liability insurance to the Chief of Police on a yearly basis and shall maintain the insurance while the owner maintains possession of the classified dog.
- (d) 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.

505.20 - Restraint of nuisance, dangerous, or vicious dogs.

- (a) No owner or person in charge of a nuisance dog shall fail to do any of the following:
 - (1) Keep the dog securely inside of the owner's home, or
 - (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 Codes.
 - (3) Securely confine the dog in a locked fenced portion of the rear yard, which fence is at least six feet in height with self-closing and self-latching gates on all openings and keep the dog under the direct supervision by a person who is of sufficient age, size and strength to control the dog. All fencing must conform to the City of Bay Village Building Codes.
 - (4) While off the premises or not secured in the home or locked enclosure, 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 non-retractable leash to the collar that conforms to the dog's weight, size and strength, not more than four feet in length which is held in the hand of a person who is of sufficient age, size and strength to control the dog.
 - (5) While off the premises or not secured in the home or locked enclosure, the dog must be fitted with a leash, collar, harness, vest or other garment that is colored neon yellow, without patterns or other adornments except designs to increase visibility of the dog at night. The identifying garment shall be visible and identifiable to an ordinary person from at least 15 feet away so as to provide reasonable warning to that person about the dog's classification.

- (6) Notify veterinarians, veterinary staff, groomers and other members of the public who come into direct contact with the dog that the dog has been designated as a nuisance dog prior to such contact.
- (b) No owner or person in charge of a dangerous or vicious dog shall fail to do any of the following:
- (1) Keep the dog securely inside of the owner's home, or
 - (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 Codes.
 - (3) If off the premises or not secured in the home or locked enclosure, keep the dog securely muzzled, making sure such muzzle does not interfere with the dogs breathing. 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 non-retractable leash to the collar that conforms to the dog's weight, size and strength, not more than four feet in length which is held in the hand of a person who is of sufficient age, size and strength to control the dog.
 - (4) While off the premises or not secured in the home or locked enclosure, the dog must be fitted with a leash, collar, harness, vest or other garment that is colored neon yellow , without patterns or other adornments except designs to increase visibility of the dog at night. The identifying garment shall be visible and identifiable to an ordinary person from at least 15 feet away so as to provide reasonable warning to that person about the dog's classification.
 - (5) Notify veterinarians, veterinary staff, groomers and other members of the public who come into direct contact with the designated dog that the dog has been designated as a nuisance dog prior to such contact. *amended by reading to vicious or dangerous dog.
 - (6) No person shall do any of the following:
 - A. Debark or surgically silence a dog that the person knows or has reason to believe is a dangerous or vicious dog;
 - B. Possess a dangerous or vicious dog if the person knows or has reason to believe that the dog has been debarked or surgically silenced;
 - C. Falsely attest on a waiver form provided by a veterinarian under Ohio R.C. 955.22(G) that the person's dog is not a dangerous or vicious dog or otherwise provide false information on that written waiver form. It is an affirmative defense to a charge of a violation of this section that the veterinarian who is charged with the violation obtained, prior to debarking or surgically silencing the dog, a written waiver form that complies with Ohio R.C. 955.22(G) and that attests that the dog is not a dangerous or vicious dog.
- (c) 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.

505.21 - Inspection obstruction.

- (a) Any person owning, keeping, possessing, harboring, maintaining or having the care, custody or control of a nuisance, 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 a 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.

(c) Whoever violates subsection (b) hereof is guilty of a misdemeanor of the fourth degree.

505.22 - Serious physical harm by nuisance, dangerous, or vicious dogs.

(a) No person, being the owner or having the care, custody or control of any nuisance, 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.

505.23 - Physical harm by nuisance, dangerous, or vicious dogs.

(a) No person, being the owner or having the care, custody or control of any nuisance, 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.

505.24 - 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 its 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 nuisance, 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.

505.25 - 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.

505.26 - Animal fights.

- (a) No person shall knowingly do either of the following:
 - (1) Engage in cockfighting, bearbaiting, or pitting an animal against another;
 - (2) Use, train, or possess any animal for seizing, detaining, or mistreating a domestic animal.
- (b) No person shall knowingly do either of the following:
 - (1) Be employed at cockfighting, bearbaiting, or pitting an animal against another;
 - (2) Do any of the following regarding an event involving cockfighting, bearbaiting, or pitting an animal against another:
 - A. Wager money or anything else of value on the results of the event;
 - B. Pay money or give anything else of value in exchange for admission to or being present at the event;
 - C. Receive money or anything else of value in exchange for the admission of another person to the event or for another person to be present at the event;
 - D. Use, possess, permit, or cause to be present at the event any device or substance intended to enhance an animal's ability to fight or to inflict injury on another animal;
 - E. Permit or cause a minor to be present at the event if any person present at or involved with the event is conducting any of the activities described in this section.
- (c) A person who knowingly witnesses cockfighting, bearbaiting, or an event in which one animal is pitted against another when a violation of subsection (b) of this section is occurring at the cockfighting, bearbaiting, or event is an aider and abettor and has committed a violation of this division.
- (d) Whoever violates this section is guilty of a misdemeanor of the first degree.

505.27 - Dogfighting offenses.

- (a) No person shall knowingly do any of the following:
 - (1) Promote, engage in, or be employed at dogfighting;
 - (2) Receive money or anything else of value for the admission of another person to a dogfighting event or a place kept for dogfighting;
 - (3) Sell, purchase, possess, or train a dog for dogfighting;
 - (4) Use, train, or possess a dog for seizing, detaining, or mistreating a domestic animal;
 - (5) Pay money or give anything else of value in exchange for admission to or be present at a dogfight;

- (6) Witness a dogfight if it is presented as a public spectacle.
- (b) The department of agriculture may investigate complaints and follow up rumors of dogfighting activities and may report any information so gathered to an appropriate prosecutor or law enforcement agency.
- (c) Any peace officer, as defined in Ohio R.C. 2935.01, may seize and cause to be impounded in accordance with Ohio R.C. 959.161 any dogs that have been, are, or are intended to be used in dogfighting. In addition, any peace officer shall confiscate any equipment or devices used in training such dogs or as part of dogfights.
- (d) Whoever violates this section is guilty of a misdemeanor of the first degree.

505.28 - Hunting prohibited, exceptions.

- (a) The hunting of animals or fowl within the City is prohibited. No person shall hunt, kill or attempt to kill any animal or fowl by the use of firearms or any other means, except as follows:
 - (1) The limited hunting of white —tailed deer by crossbow or long bow may be permitted within the City under the following terms and conditions:
 - A. The Chief of Police or his designated representative may, in his sole discretion, issue a Municipal Deer Control Permit to a qualified archer applicant;
 - B. As a corollary to and following the issuance by the ODNR of its own Deer Damage Control Permit or license to allow only bow-hunting (long bow and crossbow) of white-tailed deer;
 - C. In areas of not less than two (2) contiguous acres by a qualified archer, on such forms and subject to such rules and regulations as the Chief of Police may prescribe.
 - D. Hunting shall be conducted from an elevated platform of no less than 10' only;
 - E. Written permission from the property owner(s) has been obtained;
 - F. Qualified archer shall be defined as an individual having obtained an approval/certification from approved archery proficiency test site, a valid Ohio hunting license, if applicable, and all other state requirements;
 - G. Compliance with all laws, rules and regulations of the City and State.
 - H. All applicants shall agree, in writing, to defend and indemnify the City for any negligent acts or damages committed by the applicant.
 - I. Any other requirements as deemed necessary to preserve and protect the health, safety and welfare of the residents as determined solely by the Chief of Police.
 - J. Chief of Police is hereby authorized to promulgate any and all rules and regulations necessary to carry out the provision of this section and all other rules and regulations necessary to insure public health and safety.
 - K. Nothing in this section shall be deemed to prohibit the killing of rats and other undesirable rodents authorized to be killed by the Chief of Police using means for such killing which are also authorized by the Chief of Police.
 - (2) The prohibition set forth in subsection (a) does not apply to deer culling population management programs sponsored by and conducted on land owned or managed by the Cleveland Metropolitan Park District.
- (b) No person shall trap by use of clam-type traps or similar devices game animals, game birds or other animals or birds within the City.

- (c) The City may utilize firearm-trained personnel to cull white-tailed deer as part of a City deer management plan. Culling may take place on City-owned land and on private properties that exceed 2 acres, either individually or combined, at the request of the property owner, provided all of the following conditions apply:
 - (1) The Chief of Police, or his designee, has determined that such culling can be conducted safely on such property;
 - (2) Such personnel are employed by or associated with a federal agency, state agency or local law enforcement.
 - (3) Such culling has been approved by the Ohio Department of Natural Resources, Division of Wildlife.
- (d) No person shall, for the purpose of hindering or preventing the lawful culling of white-tailed deer pursuant to this section, knowingly engage in any of the following conduct:
 - (1) Block, obstruct, impede or attempt to block, obstruct or impede a person lawfully engaged in such culling;
 - (2) Erect a barrier with the intent to deny ingress or egress from the areas where such culling is lawfully being conducted;
 - (3) Make or attempt to make loud noises or gestures, set out or attempt to set out animal baits, scents, lures or human scent, use any other natural or artificial visual, aural, olfactory or physical stimuli, or engage in or attempt to engage in any other similar action or activity in order to interfere with such culling;
- (e) Whoever violates this section is guilty of a misdemeanor of the first degree.

505.29 - Feeding of deer prohibited; exception.

- (a) 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) 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) The City is permitted to place bait for deer as part of the City’s deer management plan.
- (d) 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.
- (e) Whoever violates this section shall receive a warning on the first offense, and is guilty of a minor misdemeanor on subsequent offenses.

505.30 - 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.

- (b) Whoever violates this section is guilty of a minor misdemeanor.

505.31 - 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, immediately after he discovers or reasonably should have discovered the escape, report it to:
- (1) A law enforcement officer of the City and the sheriff of the county where the escape occurred; and
 - (2) The division of animal health in the department of agriculture by means of the twenty-four-hour telephone number that is maintained by the division.
- (b) A law enforcement officer or natural resources law enforcement officer may destroy an exotic or dangerous animal that has escaped and that poses a threat to public safety. A law enforcement officer or natural resources law enforcement officer that destroys an escaped exotic or dangerous animal pursuant to this section is not liable for damages in a civil action for any injury, death, or loss to person or property that allegedly arises from the destruction of the animal or snake.
- (c) The person that possesses a dangerous wild animal or restricted snake that escapes is responsible for all reasonable costs associated with the capture or destruction of the animal or snake. The person shall reimburse the political subdivision that employs the law enforcement officer who captured or destroyed the dangerous wild animal or restricted snake for the costs incurred in capturing or destroying the animal or snake. However, if the law enforcement officer is a state highway patrol trooper or if a natural resources law enforcement officer captured or destroyed the dangerous wild animal or restricted snake, the person shall reimburse the state highway patrol or department of natural resources, as applicable, for those costs.
- (d) Whoever violates this section is guilty of a misdemeanor of the first degree.

505.32 - Strict liability.

The provisions of Sections 505.02 through 505.31 are specifically intended to impose strict liability.

505.33 - 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.

505.99 - Penalty.

Penalties for this Chapter shall be as stated in Section 501.99.”

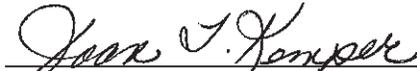
SECTION 2. That this Council finds and determines that all formal actions of this Council concerning and relating to the passage of this ordinance were taken in an open meeting of this

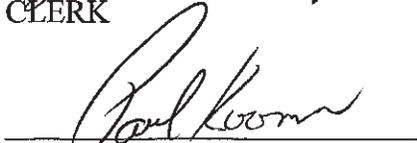
Council, and that all deliberations of this Council and of any committee that resulted in those formal actions were in meetings open to the public in compliance with law.

SECTION 3. That this ordinance will be in full force and take effect at the earliest time permitted by law.

PASSED:


PRESIDENT OF COUNCIL


CLERK


MAYOR

060818 kek