

Ordinance No. 605-2026

**By Council Members Polensek and Griffin
(by departmental request)**

AN EMERGENCY ORDINANCE

To repeal all sections in Chapter 604 of the Codified Ordinances of Cleveland, Ohio, 1976, as enacted and amended by various ordinances, relating to dogs that pose a threat to Public Safety; and enact new Sections 604.01, 604.02, 604.03, 604.04, 604.05, 604.06, and 604.99 relating to Nuisance, Dangerous and Vicious Dogs.

WHEREAS, the City of Cleveland, through its Division of Animal Care and Control, employs Animal Control Officers who receive complaints and information regarding dogs that may pose a threat to public safety within the City; and

WHEREAS, under Revised Code Chapter 955, including amendments by House Bill 247 of the 136th General Assembly, a dog may be designated as a nuisance dog, dangerous dog, or vicious dog based upon the commission of certain acts defined therein as nuisance dog acts, dangerous dog acts, or vicious dog acts; and

WHEREAS, under Revised Code Section 955.23, the county dog warden or other authorized person is empowered to investigate complaints, designate dogs, and petition a court of competent jurisdiction for a dog designation hearing; and

WHEREAS, pending investigation and final designation by the county dog warden, it is necessary and appropriate to require interim confinement of dogs that are the subject of such referrals in order to protect the health, safety, and welfare of the residents of the City of Cleveland; and

WHEREAS, this ordinance constitutes an emergency measure providing for the usual daily operation of a municipal department; now, therefore,

BE IT ORDAINED BY THE COUNCIL OF THE CITY OF CLEVELAND:

Section 1. That the following sections of the Codified Ordinances of Cleveland, Ohio, 1976:

Sections 601.01, 604.02, 604.03, 604.04, 604.05 and 604.07 as amended by Ordinance No. 712-11, passed June 6, 2011, and

Sections 604.06 and 607.99 as amended by Ordinance No. 1572-14, passed December 8, 2014,

are repealed.

Section 2. That the Codified Ordinances of Cleveland, Ohio, 1976, are supplemented by enacting new Sections 604.01, 604.02, 604.03, 604.04, 604.05, 604.06, and 604.99 to read as follows:

Ordinance No. 605-2026

Chapter 604 **Nuisance, Dangerous, and Vicious Dogs**

Section 604.01 **Definitions**

For the purpose of this chapter, the following definitions shall apply:

- (a) "Animal Control Officer" or "ACO" means the chief animal control officer of the City of Cleveland or his or her duly authorized representatives.
- (b) "County Dog Warden" means the Cuyahoga County Dog Warden or any deputy dog warden appointed pursuant to R.C. 955.12.
- (c) "Dangerous dog act" means any act as defined in R.C. 955.22 or R.C. 955.01, including but not limited to a dog that, without provocation, other than by a police dog that is being used to assist one or more law enforcement officers in the performance of their official duties, has caused injury by physical contact (other than killing or serious injury) to any person in either a menacing fashion or an apparent attitude of attack, has caused serious injury to any person without making physical contact in either a menacing fashion or an apparent attitude of attack, has killed another dog, or has caused serious injury to another dog that results in euthanasia of the dog by a person authorized to perform euthanasia under Ohio law.
- (d) "Dog owner" means the owner, keeper, or harbinger of a dog.
- (e) "Nuisance dog act" means any act as defined in R.C. 955.22 or R.C. 955.01, including but not limited to a dog that, without provocation, other than by a police dog that is being used to assist one or more law enforcement officers in the performance of their official duties, and while off the premises of its owner, keeper or harbinger, has chased or approached a person in either a menacing fashion or apparent attitude of attack, attempted to bite or otherwise endanger any person in either a menacing fashion or an apparent attitude of attack, caused injury without making physical contact in either a menacing fashion or an apparent attitude of attack, or chased, threatened, harassed, or injured another dog or livestock (excluding poultry) in either a menacing fashion or an apparent attitude of attack.

Ordinance No. 605-2026

(f) "Qualifying information" means any complaint, report, witness statement, or other information received by an Animal Control Officer that, if substantiated, may establish that a dog has committed a nuisance dog act, dangerous dog act, or vicious dog act as defined under R.C. Chapter 955.

(g) "Serious injury" means an injury as defined under R.C. 955.22 as detailed as follows:

(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.

(h) "Vicious dog act" means any act as defined in R.C. 955.22 or R.C. 955.01, including but not limited to a dog that, without provocation, has killed any person, caused serious injury to any person by physical contact, or engaged in a dangerous dog act after the dog has been previously designated as a dangerous dog.

(i) "Without provocation" means either of the following, as applicable:

(1) That a dog was not teased, tormented, or abused by a person, or that the dog was not coming to the aid or the defense of a person who was not engaged in illegal or criminal activity and who was not using the dog as a means of carrying out such activity; or

(2) That a dog was not attacked by another dog or livestock (excluding poultry).

Section 604.02 Collecting and Submitting Information to the County Dog Warden

(a) Whenever an Animal Control Officer receives information indicating that a dog within the City of Cleveland may have committed a nuisance dog act, dangerous dog

Ordinance No. 605-2026

act, or vicious dog act under R.C. Chapter 955, the Animal Control Officer shall collect information that the Animal Control Officer reasonably believes is relevant to the determination of whether the dog has committed a nuisance dog act, dangerous dog act, or vicious dog act to the extent that the information is reasonably available.

(b) Within thirty (30) days of receiving qualifying information, the Animal Control Officer shall compile and submit the information collected under division (a) of this Section to the Cuyahoga County Dog Warden for investigation and potential designation of the dog as a nuisance dog, dangerous dog, or vicious dog under R.C. Chapter 955.

(c) The Animal Control Officer shall retain a copy of all information submitted to the County Dog Warden and shall maintain such records in the files of the Division of Animal Care and Control consistent with the records retention schedule.

Section 604.03 Notice to Dog Owner

(a) Contemporaneously with or promptly following the submission of information to the County Dog Warden under Section 604.02, the Animal Control Officer shall provide written notice to the dog owner that the information has been submitted for investigation.

(b) The notice required under this Section shall be served upon the dog owner by regular U.S. mail addressed to the dog owner's last known address, by personal service upon the dog owner, or by leaving written notice posted to the primary entrance of the last known address of the dog owner. Service shall be deemed complete upon mailing, upon personal delivery, or upon the posting of written notice at the last known address, as applicable.

(c) The notice shall include, at a minimum, the following information:

(1) A statement that the Animal Control Officer has submitted information to the Cuyahoga County Dog Warden indicating that the dog owner's dog may have committed a nuisance dog act, dangerous dog act, or vicious dog act under R.C. Chapter 955;

Ordinance No. 605-2026

(2) A citation to the specific provision or provisions of R.C. Chapter 955 that may be implicated by the alleged conduct of the dog;

(3) A description of the interim confinement and restraint requirements set forth in Section 604.04, including the duration of such requirements;

(4) Contact information for the Cuyahoga County Dog Warden; and

(5) The date of the notice.

Section 604.04 Interim Confinement and Restraint Requirements

(a) A dog owner shall confine and restrain any dog that is the subject of a referral made pursuant to Section 604.03 in accordance with the requirements applicable to dangerous dogs under R.C. 955.22 and R.C. 955.24, or any successor provisions thereto. Such requirements shall include, but not be limited to:

(1) While on the premises of the dog owner, the dog shall be kept in a securely fenced yard or confined inside the dog owner's dwelling or in a locked enclosure that is sufficient to prevent the dog's escape or access by any person who does not have the dog owner's permission to access the enclosure;

(2) While off the premises of the dog owner, the dog shall be on a leash not exceeding six (6) feet in length and under the direct physical control of a person who, by reason of age, training, and experience, is capable of restraining and controlling the dog. The dog shall additionally be securely muzzled in a manner that prevents biting but does not cause injury to the dog or interfere with the dog's vision or respiration; and

(3) The dog owner shall not transfer ownership or possession of the dog to another person during the interim confinement period without first notifying the Division of Animal Care and Control in writing and providing the name and address of the transferee.

(b) The interim confinement and restraint requirements imposed under this Section shall remain in effect for a period of sixty (60) days from the date set forth on

Ordinance No. 605-2026

the notice provided under Section 604.03, or until a final designation of the dog is made by the County Dog Warden or a court of competent jurisdiction under R.C. Chapter 955, whichever occurs first, provided, however, that if a court proceeding regarding the designation of the dog under R.C. Chapter 955 is pending at the expiration of the sixty (60) day period, the interim confinement and restraint requirements shall continue in effect until the conclusion of such court proceeding, including any appeal therefrom.

(c) If, upon the expiration of the sixty (60) day period, no final designation of the dog has been made and no proceeding is pending in a court of competent jurisdiction regarding the designation of the dog under R.C. Chapter 955, the interim confinement and restraint requirements imposed under this Section shall expire and the dog owner shall no longer be required to comply with this Section solely by reason of the referral made under section 604.02. If a court proceeding is pending at the expiration of the sixty (60) day period, the interim confinement and restraint requirements shall not expire until the entry of a final order by the court, or the final disposition of any appeal, whichever is later.

(d) Nothing in this Section shall relieve a dog owner from compliance with any other applicable provisions of this Chapter or other provisions of the Codified Ordinances of the City of Cleveland, 1976, or any applicable provisions of the Ohio Revised Code.

Section 604.05 Seizure of Dogs Following Attack; Post-Seizure Procedures

(a) In addition to the seizure authority set forth in Section 604.99(c), and consistent with the authority granted to dog wardens and other authorized persons under R.C. 955.23, an Animal Control Officer who has probable cause to believe that a dog within the City of Cleveland has committed a nuisance dog act, dangerous dog act, or vicious dog act as defined in R.C. Chapter 955, shall seize and take custody of such dog if one or both of the following conditions exist:

Ordinance No. 605-2026

(1) The Animal Control Officer determines, based on the totality of the circumstances, that it is not safe to have the dog remain in the custody of the dog's owner after the commission of the alleged act; and/or

(2) The alleged act resulted in the death of a person or serious injury to a person.

(b) At the time of seizure or as soon thereafter as is practicable, the Animal Control Officer shall collect information that the Animal Control Officer reasonably believes is relevant to the determination of whether the dog has committed a nuisance dog act, dangerous dog act, or vicious dog act to the extent that the information is reasonably available.

(c) Upon seizure of a dog under this Section, the Animal Control Officer shall provide written notice to the dog owner as follows:

(1) If the dog owner is present at the time of seizure, the Animal Control Officer shall provide written notice to the dog owner at that time by personal service;

(2) If the dog owner is not present at the time of seizure or cannot be identified at the scene, the Animal Control Officer shall provide written notice by regular U.S. mail addressed to the dog owner's last known address within two (2) business days of the seizure or by leaving written notice posted to the primary entrance of the last known address of the dog owner. If the identity or address of the dog owner cannot be ascertained, the Animal Control Officer shall post a notice at the City Kennel describing the seized dog, the date and location of the seizure, and the redemption procedures set forth in this Section; and

(3) The notice required under this division shall include, at a minimum:

(i) A statement that the dog has been seized by the Division of Animal Care and Control pursuant to this Section and a citation to the specific provision of this Section under which the seizure was made;

Ordinance No. 605-2026

(ii) A description of the alleged act that gave rise to the seizure;

(iii) The location where the dog is being held and the procedure for the dog owner to inspect or visit the dog, subject to such reasonable limitations as the Division may impose for safety;

(iv) A statement that the information has been or will be referred to the County Dog Warden for investigation and potential designation under R.C. Chapter 955;

(v) A statement that, pursuant to R.C. 955.23, a court hearing shall be held within ten (10) days of the seizure to determine the disposition of the dog, and the name and address of the court of competent jurisdiction;

(vi) A statement that the dog owner has the right to appear and be heard at such hearing and the right to be represented by counsel;

(vii) A statement that the dog owner shall be responsible for all costs of seizure, impoundment, and care of the dog during the period of impoundment, as provided in division (d) of this Section, unless the court determines that the dog is not to be designated as a nuisance, dangerous, or vicious dog; and

(viii) Contact information for the Division of Animal Care and Control and for the County Dog Warden.

(d) The dog owner shall be responsible for all costs associated with the seizure, transport, impoundment, care, feeding, and veterinary treatment of a dog seized under this Section during the period of impoundment. Such costs shall accrue from the date of seizure. If the court determines, following a hearing under R.C. 955.23, that the dog is not to be designated as a nuisance, dangerous, or vicious dog, the dog owner shall not be responsible for costs accrued under this division, and the City shall bear such costs.

Ordinance No. 605-2026

(e) Upon the seizure of a dog under this Section, the Animal Control Officer shall compile and submit the documentation required under division (b) of this Section to the County Dog Warden for investigation and for the initiation of designation proceedings under R.C. 955.23. This referral shall be in addition to, and shall not be delayed pending completion of, any referral otherwise required under Section 604.02. Contemporaneously with the referral to the Dog Warden, the Animal Control Officer shall notify the court of competent jurisdiction that a dog has been seized under this Section and that a hearing is required within ten (10) days of the date of seizure, as provided by R.C. 955.23.

(f) Pursuant to R.C. 955.23, a court of competent jurisdiction shall hold a hearing within ten (10) days of the seizure of a dog under this Section to determine the disposition of the dog. The Division of Animal Care and Control shall take all reasonable steps within its authority to ensure that the hearing is scheduled and held within this time frame, including by coordinating with the County Law Department and/or the County Dog Warden.

If the court, following a hearing, determines that the dog committed a vicious dog act as defined in R.C. Chapter 955, resulting in the death of a person or serious injury to a person, the court shall order the humane destruction of the dog as required by R.C. 955.23. The Division of Animal Care and Control shall carry out such order in accordance with division (g) of this Section.

If the court, following a hearing, determines that the dog shall be returned to the dog owner subject to conditions, the Division of Animal Care and Control shall not release the dog until the dog owner demonstrates compliance with all conditions imposed by the court, including but not limited to the procurement of liability insurance, registration, microchipping, and secure confinement as required by R.C. Chapter 955.

Ordinance No. 605-2026

(g) No dog seized under this Section shall be humanely destroyed except pursuant to a valid order of a court of competent jurisdiction issued following a hearing under R.C. 955.23.

Notwithstanding any other provision of this Section, if a licensed veterinarian determines that a dog seized under this Section is suffering from a condition that causes the dog severe and unremitting pain and that the condition cannot be treated or alleviated, the dog may be humanely destroyed upon the written certification of the veterinarian, provided that the Division shall make reasonable efforts to notify the dog owner in advance of such destruction and shall document the veterinary certification in the dog's record.

(h) This Section shall not apply to any of the following:

(1) A police dog, as defined in R.C. 955.01, that was acting in the performance of its official duties at the time of the alleged act;

(2) A dog that the Animal Control Officer determines was acting in defense of itself, its owner, or the property of its owner against a person who was committing or attempting to commit a trespass or other criminal offense on the property of the dog's owner, or who was teasing, tormenting, or abusing the dog at the time of the alleged act; or

(3) A dog whose alleged act resulted from playful, nonaggressive, or age-appropriate behavior, as determined by the Animal Control Officer based on the totality of the circumstances.

(i) In the event of a conflict between this Section and R.C. Chapter 955, the provisions of R.C. Chapter 955 shall control. This Section is intended to supplement, and not to supplant, the authority granted to dog wardens and other authorized persons under R.C. Chapter 955.

Section 604.06 Severability

The provisions of Sections 604.01 to 604.05 are severable, and if any phrase, clause, sentence, or provision is declared to be invalid or is preempted by federal or state

Ordinance No. 605-2026

law or regulation, the validity of the remaining provisions of this Chapter shall not be affected thereby. If any provision of these Sections is declared inapplicable in any specific way, the remaining provisions shall nonetheless continue to apply and be in full force and effect.

Section 604.99 Penalties

(a) Any dog owner who fails to comply with the interim confinement and restraint requirements set forth in section 604.04, after having received notice as provided in section 604.03, shall be guilty of a minor misdemeanor on a first offense, and on a second or subsequent offense shall be guilty of a misdemeanor of the fourth degree.

(b) Each day that a violation of section 604.04 continues shall constitute a separate offense.

(c) In addition to any penalties imposed under this Section and to the seizure authority provided under 604.05, the Animal Control Officer may seize and impound any dog that is found to be in violation of the interim confinement and restraint requirements of section 604.04. The dog owner shall be responsible for all costs associated with the seizure, impoundment, and care of the dog during the period of impoundment.

(d) The penalties provided in this Section are in addition to, and not in lieu of, any penalties that may be imposed under R.C. Chapter 955.

Section 6. That this ordinance is declared to be an emergency measure and, provided it receives the affirmative vote of two-thirds of all the members elected to Council, it shall take effect and be in force immediately upon its passage and approval by the Mayor; otherwise it shall take effect and be in force from and after the earliest period allowed by law.

SL:uo
5-11-26

FOR: Director Drummond

