

Introduced by \_\_\_\_\_ Councilman

Seconded by \_\_\_\_\_ Councilman

Form Approved Anthony L. By Director of Law

PUBLICATION: I hereby certify that Ord. No. \_\_\_\_\_ was published in a summary manner according to law in the Lima News on \_\_\_\_\_

Sally Clemans, Clerk

VOTE	1ST		2ND		3RD	
	Y	N	Y	N	Y	N
GORDON						
McLEAN						
LOWE						
TEBBEN						
ADAMS						
GLENN						
MILES						
NIXON						
TOTAL						

**AN ORDINANCE AMENDING CHAPTER 618 OF THE CODIFIED ORDINANCES OF LIMA, OHIO.**

**WHEREAS**, the Safety Services Committee of Council has authorized legislation to amend Chapter 618, Animal Control, of the Codified Ordinances of Lima, Ohio; and,

**WHEREAS**, the provisions in this Chapter are enacted pursuant to the City of Lima's home-rule authority under Ohio Constitution Article XVII, Section 3 (Home Rule), Ohio Revised Code Section 955.221(B)(3), Section 1 of the Charter of the City of Lima, and the ruling of the Ohio Supreme Court that the Ohio General Assembly may not by statute prohibit the municipal home-rule authority granted by Article XVIII, Section 3 of the Ohio Constitution. See *City of Cleveland v. State*, 138 Ohio St. 3d 232 (Ohio 2014) (Syllabus 1); and,

**WHEREAS**, in addition to the authority above, with respect to section 618.08, while the laws of the State of Ohio as set forth in R.C. § 955.11 establish regulations and controls on vicious, dangerous, and nuisance dogs after a bite or aggressive action has occurred, Council desires to enact C.O.L. § 618.08 to supplement an unregulated area of the Revised Code to provide for regulation of Pitbull dogs prior to a bite or aggressive action taking place, as a means to protect the health, safety, and welfare of the citizens of and visitors to the City; and,

**WHEREAS**, Council finds and determines that in 2013 in Lima there were approximately 97 reported dog bites and 29% of those were from pitbull dogs, and that in 2012 approximately 39% of the dog bites by reported breed in Lima were attributed to pitbull dogs; and,

**WHEREAS**, Council finds that it is in the best interests of the health, safety, and welfare of the citizens and visitors of the City of Lima to enact C.O.L. 618.08 pursuant to the authorities set forth above to provide specific regulations regarding Pitbull dogs inside the City. Council finds this section is a reasonable control on the unrestrained activities of Pitbull dogs to protect the health, safety, welfare, and pleasantness of the use of streets, parks, sidewalks, yards and all other areas of the City by citizens and visitors. In making these findings Council also adopts and affirms the evidence and findings regarding pitbulls set forth in the Ohio Supreme Court case of *City of Toledo v. Tellings*, 114 Ohio St. 3d 278, 282-283 (Ohio 2007); and,

**WHEREAS**, as further authority and findings in support of all provisions in this Chapter (specifically including but not limited to 618.08) Council adopts and incorporates herein all the information presented to Council through its Safety Services Committee Reports related to the enactment of this Ordinance, on file with the Clerk of Council; and,

**WHEREAS**, it is necessary to immediately enact this amendment in order to preserve and protect the public peace, property, health and safety, for the reasons set forth above, and to provide for the usual daily operation of the municipal government, and by reason thereof, this Ordinance shall take effect forthwith upon its passage; Now, therefore,

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

**Section 1.** Chapter 618 of the Codified Ordinances of Lima, Ohio, is hereby amended as follows:

**CHAPTER 618  
Animal Control**

618.01	Authority; Findings	618.08	Pitbull Regulations
618.02	Definitions	618.09	General Animal Regulations.
618.03	Hunting Prohibited	618.10	Animal bites; reports and quarantine.
618.04	Certain Animals Prohibited	618.11	Impounding and disposition; records.
618.05	Dog Registration; Tags Required	618.98	Severability
618.06	Offenses Relating to Domestic Animals	618.99	Penalties
618.07	Vicious, Dangerous, and Nuisance Dogs		

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**618.01 AUTHORITY; FINDINGS**

(A) The provisions in this Chapter are enacted pursuant to the City of Lima's home-rule authority under Ohio Constitution Article XVII, Section 3 (Home Rule), Ohio Revised Code Section 955.221(B)(3), Section 1 of the Charter of the City of Lima, and the ruling of the Ohio Supreme Court that the Ohio General Assembly may not by statute prohibit the municipal home-rule authority granted by Article XVIII, Section 3 of the Ohio Constitution. See *City of Cleveland v. State*, 138 Ohio St. 3d 232 (Ohio 2014) (Syllabus 1).

(B) In addition to the Authority in subsection (A) above, with respect to section 618.08 set forth below, while the laws of the State of Ohio as set forth in R.C. § 955.11 establish regulations

and controls on vicious, dangerous, and nuisance dogs after a bite or aggressive action has occurred, Council desires to enact C.O.L. § 618.08 to supplement an unregulated area of the Revised Code to provide for regulation of Pitbull dogs prior to a bite or aggressive action taking place, as a means to protect the health, safety, and welfare of the citizens of and visitors to the City.

(1) Council finds and determines that in 2013 in Lima there were approximately 97 reported dog bites and 29% of those were from pitbull dogs, and that in 2012 approximately 39% of the dog bites by reported breed in Lima were attributed to pitbull dogs; and,

(2) Council finds that it is in the best interests of the health, safety, and welfare of the citizens and visitors of the City of Lima to enact C.O.L. 618.08 pursuant to the City's Home Rule Authority to provide specific regulations regarding Pitbull dogs inside the City. Council finds this section is a reasonable control on the unrestrained activities of Pitbull dogs to protect the health, safety, welfare, and pleasantness of the use of streets, parks, sidewalks, yards and all other areas of the City by citizens and visitors. In making these findings Council adopts and affirms the evidence and findings set forth in the Ohio Supreme Court case of City of Toledo v. Tellings, 114 Ohio St. 3d 278, 282-283 (Ohio 2007)

(C) As further authority and findings in support of all provisions in this Chapter (specifically including but not limited to 618.08) Council adopts and incorporates herein all the authorities and findings set forth in Ordinance 134-14 amending this Chapter, and the information presented to Council through its Safety Services Committee Reports related to the enactment of that Ordinance, on file with the Clerk of Council.

#### **618.02 DEFINITIONS.**

(A) "Dangerous Dog" has the same meaning as in section 955.11 of the Ohio Revised Code.

(B) "Farm animal" means cows, bulls, goats, swine, sheep, donkeys, cattle, llamas, emus and all other equidae, bovidae and suidae.

(C) "Fowl" means chickens, ducks, geese, roosters, pheasants, turkeys, peacocks, guinea hens and all other wild or domestic fowls.

(D) "Keeper" means one who has the present physical care, charge, custody, control, or possession of the animal.

(E) "Harborer" means one who, has possession and control of the premises where the animal is located, and directly or indirectly acquiesces to the animal's presence.

(1) Any person who allows any animal to remain or be lodged or fed within any dwelling, building, yard or enclosure, which the person occupies or owns, shall be considered to be harboring such animal.

(F) "Nuisance Dog" has the same meaning as in section 955.11 of the Ohio Revised Code.

(G) "Owner" means the person to whom the animal belongs.

(1) Evidence of one or more of the following are prima facie evidence of ownership: purchase of the animal, purchase of a dog license, payment of veterinarian bills, payment for or provision of food and shelter.

(H) "Pitbull" means a dog that includes the following breeds: American Pit Bull Terrier, American Staffordshire Terrier, Staffordshire Bull Terrier, American Bulldog, Bull Terrier, or any mixed breed of dog which has the appearance and characteristics belonging to any of the aforementioned, recognized breeds, or any dog that is commonly known as a pit bull dog or pit bull terrier, as identified by a veterinarian, dog warden, humane officer, or other individual qualified by education, experience or training to make such a determination.

(I) "Vicious Dog" has the same meaning as in section 955.11 of the Ohio Revised Code.

(J) "Wild animal" means bears, deer, wolves, foxes, skunks, raccoons, monkeys, apes, any Dangerous Wild Animal or Restricted Snake as defined under Ohio Revised Code §935.01, or any other animal that by its nature is not domesticated.

#### **618.03 HUNTING PROHIBITED.**

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 by any other means. However, nothing in this section shall be deemed to prohibit the killing of rats and other undesirable vermin or rodents authorized to be killed by the Chief of Police using means for such killing which are also authorized by the Chief.

#### **618.04 CERTAIN ANIMALS PROHIBITED.**

(A) No person shall keep or harbor or feed any farm animals or fowl within the corporate limits of the City unless such person is the owner, or has the legal right to possession, of a minimum of two (2) acres of land on which the farm animals or fowl are kept or harbored.

(B) No person shall keep or harbor any wild animal within the corporate limits of the City.

(C) Any person keeping or harboring any prohibited animal set forth above shall have 5 days after receipt of notice of violation to remove the animal(s) from the property, or the City may remove the animal(s) at the expense of the person owning, keeping or harboring such animal(s).

**618.05 REGISTRATION OF DOGS; TAGS REQUIRED.**

(A) No owner, keeper, or harbinger of a dog more than three months of age, nor owner of a dog kennel, shall fail to file an application for registration and pay the fee required by Ohio Revised Code § 955.01. A dog found not wearing a valid tag shall be prima-facie evidence of lack of registration and shall subject any dog found not wearing such a tag to impounding, sale, or destruction.

(B) No owner, keeper, or harbinger of a dog shall fail to require the dog to wear at all times a valid tag issued in connection with a certificate of registration.

(C) This section shall not apply to a dog constantly confined to a dog kennel registered under O.R.C. Chapter 955 or one licensed under O.R.C. Chapter 956.

(D) No person shall own, keep, or harbor a dog wearing a fictitious, altered, or invalid registration tag or a registration tag not issued by the County Auditor in connection with the registration of that animal.

(E) No person shall obstruct or interfere with anyone lawfully engaged in capturing an unlicensed dog or making an examination of a dog wearing a tag.

**618.06 OFFENSES RELATING TO DOMESTIC ANIMALS.**

No person shall violate any provision of Ohio Revised Code Chapter 959, Offenses Relating to Domestic Animals.

**618.07 VICIOUS, DANGEROUS, AND NUISANCE DOGS.**

The provisions for Vicious, Dangerous, and Nuisance Dogs as set forth in section 955.11, 955.22, 955.222, and 955.54 of the Ohio Revised Code, and the provisions of any other Ohio Revised Code sections specifically relating to Vicious, Dangerous, and Nuisance Dogs as defined in R.C. 955.11, shall apply inside the City.

**618.08 PITBULL REGULATIONS.**

(A) For purposes of this section:

(1) "Unconfined" shall mean the following:

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

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

(B) No person shall keep or harbor, or permit or acquiesce in the keeping or harboring of, more than one Pitbull dog at his or her residence.

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

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

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

(F) No person shall walk or run more than 1 Pitbull dog at the same time.

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

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

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

(1) Any person who walks, runs, transports, or otherwise removes a Pitbull dog from the premises of the owner, harborer, keeper, or from the premises of the person who has the

care, custody, or control of a Pitbull dog, shall carry upon their person during such time proof of the liability insurance, as prescribed in this sub-section.

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

#### **618.09 GENERAL ANIMAL REGULATIONS.**

(A) **Leash Required.** No person being the owner, harborer, keeper, or having the care, custody, or control of any dog shall permit it to be upon any public place or upon the premises of another without a leash no greater than 20 feet in length.

(B) **Animals running at large.** An owner, keeper, or harborer of any animal or fowl found running at large upon any public way or upon unenclosed land or upon the premises of another is guilty of a minor misdemeanor

(1) Whoever violates this subsection, in addition to the penalty provided in section 618.99, shall be liable for all damages caused by such animal or fowl.

(C) **Barking dogs.** No person shall own, keep, or harbor any dog within the City which, by barking, howling or yelping, creates unreasonably loud and disturbing noises of such a character, intensity and duration as to disturb the peace, quiet and good order of the surrounding neighborhood.

(D) **Unsanitary Condition.** No person shall keep or harbor any animal or fowl in the City so as to create noxious or offensive odors or unsanitary conditions which are a menace to the health, comfort or safety of the public.

(1) Persons walking a dog in a public place or upon the premises of another shall be in possession of materials to remove feces left by a such dog and shall promptly remove and dispose of, in a sanitary manner, feces left by such dog.

#### **618.10 ANIMAL BITES; REPORTS AND QUARANTINE.**

(A) Whenever any person is bitten by a dog or other animal, a report of such bite shall be made to the Lima-Allen County Health Commissioner within 24 hours. The owner, harborer, or keeper of the dog or other animal inflicting a bite shall cause the dog or other animal to immediately be examined by a qualified veterinarian and results of such examination shall be reported to the Lima-Allen County Health Commissioner within 24 hours. At the direction of the Health Commissioner, the dog or other animal shall either be confined by its owner, keeper, or harborer to a premises away from the public at large, or be placed under supervision of a veterinarian at the owner's, keeper's, or harborer's expense. The isolation or observation period shall not be less than

ten days from the date the person was bitten, at which time report of the condition of the animal shall be made to the Health Commissioner.

(B) No person shall fail to comply with the requirements of this section or with any order of the Health Commissioner made pursuant thereto, nor fail to immediately report to the Health Commissioner any symptom or behavior suggestive of rabies.

#### **618.11 IMPOUNDING AND DISPOSITION; RECORDS.**

(A) A police officer or animal warden may impound every dog or other animal found in violation of Section 618.09(B) or (C). If the impounded dog is not wearing a valid registration tag, the dog shall forthwith be turned over to an officer charged by law with the custody and disposal of such dogs. If the dog is wearing a valid registration tag or the identity of the owner or harbinger is otherwise established, notice shall immediately be given to such owner or harbinger that the dog has been impounded. Notice may be by telephone or by ordinary mail to the last known address of such owner or harbinger. The dog shall not be released except upon the payment of reasonable expenses for its taking and keeping. Any dog not redeemed within three days of the time it is seized or impounded may be sold or otherwise disposed of as provided by Ohio R.C. 955.16.

(B) A record of all dogs impounded, the disposition of the same, the owner's name and address, if known, and a statement of any costs or receipts involving such dog shall be kept.

#### **618.98 SEVERABILITY.**

In the event any section or provision of this Chapter is held to be invalid for any reason that section or provision shall be severed, and the remaining provisions of this Chapter shall be enforceable.

#### **618.99 PENALTIES.**

(A) Unless otherwise provided herein, whoever violates any provision of this Chapter shall be guilty of a minor misdemeanor.

(B) A violation of sections 618.06 or 618.07 shall be punishable in the same manner as a violation of the corresponding section of the Ohio Revised Code which was violated.

(C) Whoever violates any of the provisions of section 618.08 is guilty of a minor misdemeanor and shall be fined the amount of \$150.00 for each violation.

(1) If any violation of section 618.08 results in any type of physical injury to a person or domestic animal, the offender shall be guilty of a misdemeanor of the first degree.



(2) In addition to the penalty provided for in this subsections (C), as restitution the court may order that whoever violates any of the provisions of section 618.08 shall pay all expenses, including shelter, food, veterinary expenses for identification or certification of the breed of the animal, boarding and veterinary expenses necessitated by the seizure of the dog for the protection of the public, and such other expenses as may be requested for the destruction of any such dog.

**Section 2.** Existing Chapter 618 is hereby amended as set forth above, and any previous sections or ordinances in conflict herewith are hereby repealed.

**Section 3.** Council finds and determines that all formal actions of this Council and any of its committees concerning and relating to the adoption of this ordinance were taken in an open meeting and that all deliberations of this Council and of any of its committees that resulted in those formal actions were in meetings held in compliance with the law.

**Section 4.** The Clerk of Council is authorized and directed to cause publication of this Ordinance to be made in a summary manner as provided by the City Charter.

**Section 5.** This ordinance shall take effect and be in force forthwith upon passage by an affirmative vote of at least two-thirds of the members elected to council at the first reading hereof. If it shall not so pass it shall take effect and be in force forthwith upon passage by an affirmative vote of at least two-thirds of the members elected to council at the second reading hereof. If it shall not so pass at second reading then it shall take effect and be in force forthwith upon passage by an affirmative vote of at least a majority of the members elected to council at the third reading hereof. Otherwise, it shall take effect and be in force from and after the earliest period allowed by law.

Passed: \_\_\_\_\_, 2014

\_\_\_\_\_  
John G. Nixon, President

Approved: \_\_\_\_\_, 2014

\_\_\_\_\_  
David J. Berger, Mayor

Attest: \_\_\_\_\_  
Sally Clemans, Clerk