

NOTICE

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CHAPTER 618 ANIMALS

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CROSS REFERENCES

See section histories for similar State law

Power to restrain and impound animals – see Ohio Revised Code 715.23

Driving animals upon roadway – see TRAF. 404.04, 404.05

Definitions generally – see GEN. OFF. 606.01

Offensive odors from places where animals are kept or fed – see GEN. OFF. 606.03

Rat proofing – see GEN. OFF. 660.19

SECTION 618.01 DEFINITIONS

- (a) As used in this chapter (whether or not capitalized):
- (1) “Animal” means any live, vertebrate creature, domestic or wild.
 - (2) “*Community Cat*” means a free-roaming cat with no owner that may be cared for by a Community Cat Caregiver; a community cat may or may not be a feral cat.
 - (3) “*Community Cat Caregiver*” shall mean a person who (i) has been trained in Trap-Neuter-Return policies and procedures, (ii) has registered with and been approved by the City, and (iii) in accordance with and pursuant to the City’s policy of Trap-Neuter-Return, provides care, including, food, shelter, or medical care to a Community Cat.

Community Cat Caregivers will not be considered the owner, harborer, controller, or keeper of a Community Cat.

- (4) “Domesticated” means any animal which is accepted by the general public as tamable and bred as a tamed animal for the purposes of man.
- (5) “*Eartipping*” means the removal of the distal one-quarter of a community cat’s left ear, which is approximately 3/8-inch, or 1 cm, in an adult and proportionally smaller in a kitten. This procedure is performed under sterile conditions while the cat is under anesthesia, in compliance with any applicable federal or state law, and under the supervision of a licensed veterinarian. Eartips are designed to identify a community cat as being sterilized and lawfully vaccinated for rabies.
- (6) “Exotic” means any animal which is foreign and generally not indigenous to the local community.
- (7) “Feral Cat” means a cat that lives outdoors and is unsocialized. Feral cats tend to be fearful of humans.
- (8) “Owner”, as used in this chapter, shall mean any person, firm, corporation, business entity, or any unaffiliated group of persons owning, keeping, harboring, or having care, custody or control of one or more animals. Any entity shall be presumed to be the owner, keeper or harborer of an animal for purposes of this chapter if such entity causes or does any of the following:
 - (i) knowingly allows any animal to remain upon his or her property for more than twenty-four hours;
 - (ii) knowingly or recklessly feeds such animal food or water on a regular basis for more than twenty-four hours;
 - (iii) knowingly restrains such animal from leaving his or her property for more than twenty-four hours; or
 - (iv) knowingly accepts responsibility to care for or control another person’s animal.
- (9) “SICSA” means The Society For The Improvement Of Conditions For Stray Animals.
- (10) “*Trap-Neuter-Return*” or “TNR” means the process of humanely trapping, sterilizing, vaccinating for rabies, eartipping, and returning Community Cats to their original location.

- (11) “Wild” means any animal which generally lives in its original, natural state, and is not normally domesticated.
- (12) The term “In-Leash”, as used in this chapter, shall mean the animal is securely attached to a leash of a size, type and strength necessary to control the behavior of the animal to which the leash is attached, and the leash is securely attached to a physical restraint of a size and strength to maintain the animal within the restrained physical area of the leash, or the leash is securely held at all times in the hand of a person with reasonable judgment and the physical size to control the behavior of the leashed animal. The leash shall be no longer than six feet (6 ft.) in length.
- (13) “Vicious Dog” means a dog that has been labeled as a vicious dog pursuant to Ohio Revised Code Chapter 955 or pursuant to a similar local ordinance.
- (14) “Dangerous Dog” means a dog that has been labeled as a dangerous dog pursuant to Ohio Revised Code Chapter 955 or pursuant to a similar local ordinance.
- (15) “Nuisance Dog” means a dog that has been labeled as a nuisance dog pursuant to Ohio Revised Code Chapter 955 or pursuant to a similar local ordinance.

SECTION 618.02 CONTROL OF DOGS.

- (a) No Owner, as defined in section 618.01, shall suffer or permit a dog to:
 - (1) Be at large within the city unless securely attached upon a leash held in the hand of a person in a manner which continuously controls the dog.
 - (2) Be unsecured while on the premises of the owner.
 - (3) Aggressively snap at or attempt to bite or attempt to cause physical harm to any other person, domestic animal, or feline.
 - (4) Cause physical harm to the property of another.
 - (5) Bite or otherwise cause physical harm to any other person, domestic animal, or feline.

(b) No person shall own, keep, possess, harbor, maintain, or have the care, custody, or control of a vicious dog, as defined in Section 618.01, within the city.

(c) No person shall own, keep, possess, harbor, maintain, or have the care, custody, or control of a dog that has been labeled a dangerous dog or nuisance dog in violation of any conditions contained in Ohio Revised Code Chapter 955 or pursuant to a similar local ordinance.

(d) No person who has been previously convicted of violating 618.02 (a)(5), or 618.02 (b), shall own, keep, possess, harbor, maintain, or have the care, custody, or control of any dog for a period of five years following the date of said previous conviction.

(e) Defenses.

(1) It shall be an affirmative defense to a violation of 618.02 (a)(1) and (2) that the dog was:

(i) Securely confined in an automobile or cage which was adequately ventilated.

(ii) Being used for lawful hunting purposes.

(iii) Being exhibited at a public dog show, zoo, museum, or public institution.

(2) It shall be an affirmative defense to a violation of 618.02 (a)(3), (4), and (5) that at the time of the occurrence, the dog was secured and such other person, domestic animal, or feline was: (i) unlawfully on the property owned or controlled by the owner of such dog; or (ii) tormenting or abusing such dog on the owner's property.

(3) No public law enforcement agency or member thereof, or a licensed private law enforcement agency or member thereof, shall be convicted of any violation of this section where the dog is owned by the agency and being utilized for law enforcement purposes.

(4) Lack of intent or knowledge is not a defense to a violation of this Section 618.02.

(f) Penalties

(1) Except as provided in (f)(2) below, whoever violates division (a)(1) or (a)(2) or (c) of this section shall be guilty of a minor misdemeanor.

- (2) Any person who, within two years of the date of the offense, has been convicted of a prior violation of any division of section 618.02, shall be guilty of a misdemeanor of the fourth degree.
- (3) Whoever violates division (a)(3) of this section shall be guilty of a misdemeanor of the fourth degree.
- (4) Whoever violates division (a)(4) of this section shall be guilty of a misdemeanor of the third degree.
- (5) Whoever violates division (a)(5) or (b) of this section shall be guilty of a misdemeanor of the first degree.
- (6) Whoever violates division (c) of this section shall be guilty of a misdemeanor of the second degree.

SECTION 618.03 ANIMALS RUNNING AT LARGE.

(a) No person being the owner of or having charge of horses, mules, cattle, sheep, goats, swine, geese or other fowl or animals shall permit them to run at large upon any public way or upon land of another.

(b) The running at large of any such animal in or upon any of the places mentioned in this Section is prima facie evidence that it is running at large in violation of this Section.

- (c)
 - (1) Whoever violates any provision of this Section is guilty of a minor misdemeanor for a first offense. Punishment shall be as provided in Section 698.02.
 - (2) Whoever violates any provision of this Section in a second or subsequent offense shall be guilty of a fourth degree misdemeanor. Punishment shall be as provided in Section 698.02.
 - (3) For a second conviction of any provision of this Section which involves an occurrence where a person has been attacked or caused personal injury by an animal running at large, the owner or person in charge of such animal shall be guilty of a first degree misdemeanor. Punishment shall be as provided in Section 698.02. Such animal shall be impounded and placed in a county designated animal shelter or with a licensed veterinarian and such animal shall thereafter be destroyed by a licensed veterinarian. Such impounding, maintenance and destruction expense shall be at the cost to the owner or other person having charge or control of the animal.

- (4) In any hearing under this Section, testimony that the records of the County Auditor shows that the dog license was issued to the defendant shall be prima facie evidence of ownership.
- (5) Any animal whether licensed or unlicensed found running at large in any street, public place or upon land of another person, in violation of any of the provisions of this chapter, may be impounded on sight and disposed of by being placed in a county designated animal shelter or any other agency selected by the City, such impounding and the maintenance fees and other charges of the shelter or agency to be the expense of the owner or other person having charge or control of the animal. The City may enter into a contract with the animal shelter or other agency regarding the terms and conditions of such procedures. (Ord. 3494-91; passed May 14, 1991.)

SECTION 618.04 ABANDONING ANIMALS.

(a) No owner or keeper of a dog, cat or other domestic animal shall abandon such animal. Community Cat Caregivers are exempt to the extent they are caring for one or more Community Cats in compliance with TNR policy.

(b) Whoever violates this Section is guilty of a minor misdemeanor. Punishment shall be as provided in Section 698.02.

SECTION 618.05 KILLING OR INJURING ANIMALS.

(a) No person shall maliciously, or willfully and without the consent of the owner, kill or injure any animal that is the property of another or a Community Cat. This Section does not apply to a licensed veterinarian or a public official acting in his official capacity.

(b) Whoever violates any provision of this Section is guilty of a misdemeanor of the second degree if the value of the animal killed or the injury done amounts to less than three hundred dollars (\$300.00). If the value of the animal killed or the injury done amounts to three hundred dollars (\$300.00) or more, such person is guilty of a misdemeanor of the first degree. Punishment shall be as provided in Section 698.02.

SECTION 618.06 POISONING ANIMALS.

(a) No person shall maliciously, or willfully and without consent of the owner, administer poison, except a licensed veterinarian acting in such capacity, to any animal that is

the property of another; and no person shall, willfully and without the consent of the owner, place any poisoned food where it may be easily found and eaten by children or any such animals, either upon his own lands or the lands of another.

(b) Whoever violates any provisions of this Section is guilty of a misdemeanor of the first degree. Punishment shall be as provided in Section 698.02.

SECTION 618.07 CRUELTY TO ANIMALS.

(a) No person shall:

- (1) Torture an animal, deprive one of necessary sustenance, unnecessarily or cruelly beat, needlessly mutilate or kill an animal, nor 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, excessive direct sunlight or excessive heat or cold if it can reasonably be expected that the animal would otherwise become sick or in some other way suffer; (Ord. 3515-92; passed 9/24/91.)
- (3) Carry or convey an animal in a cruel or inhumane manner; or
- (4) Keep animals, other than cattle, poultry or fowl, swine, sheep or goats, in an enclosure without wholesome exercise and change of air, or feed cows on food that produces impure or unwholesome milk.

(b) Whoever violates any provisions of this Section is guilty of a misdemeanor of the second degree. Punishment shall be as provided in Section 698.02.

SECTION 618.08 COLORING RABBITS AND 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 persons shall sell, offer for sale, expose for sale, raffle or give away any rabbit or baby 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 for a first offense and a misdemeanor of the fourth degree for any subsequent offense. Punishment shall be as provided in Section 698.02.

SECTION 618.09 NUISANCE CONDITIONS PROHIBITED.

(a) No owner shall allow his dog, cat or other domestic animal to become a public nuisance. Excessive barking, whining or howling, molesting passersby, chasing vehicles, attacking other domestic animals and damaging property shall be considered a nuisance under this Section.

(b) Excluding Community Cats, any animal which scratches, digs, urinates or defecates upon any lawn, tree, shrub, plant, building or any other public or private property, other than the property of the owner or person in charge or control of such animal, is hereby declared to be a public nuisance. Where the owner or person in charge or control of such animal immediately removes all feces deposited by such animal and disposes of same in a sanitary manner, such nuisance shall be considered abated.

(c) No owner shall allow their household pets to cause or create a nuisance, health hazard, or unsanitary condition. Household pet means any dog, cat, or other species of animal, fish, fowl, amphibian, or reptile which species is commonly deemed in this City to be tame and domesticated, or that is commonly accepted in this City as a pet kept inside a residence. A household pet is not kept for food production or agricultural value.

(d) Whoever violates any of the provisions of this Section is guilty of a minor misdemeanor. Punishment shall be as provided in Section 698.02.

SECTION 618.10 REGISTRATION OF DOGS; TAGS TO BE WORN.

(a) Excluding guide dogs registered under Ohio Revised Code 955.011 and dogs kept by an institution or organization for teaching and research purposes under Ohio Revised Code 955.16, no owner, keeper or harbinger or person in charge or control of any dog over three months of age after January 31st of any year, or brought from outside the state at any time during the year, shall fail to register such dog with the Montgomery County Auditor as required by Ohio Revised Code 955.01. Any dog at any time not wearing or having securely affixed to a collar or other attire worn by the dog, a valid registration tag shall be prima facie evidence of lack of registration and subject such dog to impounding and disposition as provided by Ohio Revised Code 955.16. Whoever violates this Subsection is guilty of a minor misdemeanor. Punishment shall be as provided in Section 698.02.

(b) Failure to display the tag issued in connection with the registration required by Ohio Revised Code 955.01 on a dog's collar, harness, leash or similar device, shall be prima facie evidence of a violation of Subsection (a) hereof.

(c) Whoever violates this Section is guilty of a minor misdemeanor. Punishment shall be as provided in Section 698.02.

SECTION 618.11 HINDERING CAPTURE OF UNLICENSED DOG.

(a) 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.

(b) Whoever violates this Section is guilty of a minor misdemeanor. Punishment shall be as provided in Section 698.02.

SECTION 618.12 RABIES IMMUNIZATION AND QUARANTINE.

(a) All dogs in the City over six months of age shall be properly immunized against rabies by their owners, keepers or harborers. The current rabies immunization tag must be displayed on the dog whenever the animal leaves the property of the owner. In connection with immunization of animals to protect against rabies, vaccinations and procedures related thereto, the Kettering Animal Control Officer shall have in all areas located within the then current municipal boundaries of the City of Kettering the authority and power the same as provided pursuant to Regulation 810 of the Public Health – Dayton and Montgomery County (fka Montgomery County Combined General Health District) Sanitary Regulations.

(b) Whoever violates this Section is guilty of a minor misdemeanor. Punishment shall be as provided in Section 698.02.

SECTION 618.13 HUNTING AND TRAPPING.

No person shall, except as hereinafter provided, hunt or trap any fur bearing animal within the municipality.

(a) Fur bearing means any animal, the pelt or hide of which has any commercial value including, but not limited to, minks, weasels, raccoons, skunks, opossums, rabbits, squirrels, woodchucks, muskrats, fox, deer and beaver.

(b) In the event the existence of fur bearing animals shall constitute a nuisance on any property, the owner or occupant shall notify the City Animal Control Officer of such condition. If, in the opinion of the Animal Control Officer, a nuisance condition is found to exist, said officer or the designated animal trapper licensed by the State of Ohio may engage in trapping of said animal(s).

(c) Whoever violates any of the provisions of this Section is guilty of a misdemeanor of the second degree. Punishment shall be as provided in Section 698.02.

SECTION 618.14 WILD OR EXOTIC ANIMALS.

(a) No person shall market, wholesale or retail any wild or exotic animal or fur bearing quadruped. Exceptions to this prohibition include those animals native to the farm and sold at auction or by private sale, such as horses, cattle, swine and poultry, and those animals sold by pet dealers or by private sale, such as domestic cats, domestic dogs, domestic rabbits, guinea pigs, chinchilla, mice, hamsters, gerbils, psittacine birds and non-poisonous, non-carnivorous fish.

(b) No person shall own or harbor any wild or exotic animal. Exceptions to this prohibition are touring animal exhibitions, circuses, veterinarians (for the purpose of medical treatment), educational research facilities, aid for handicapped persons or persons licensed or permitted by the State.

Animals which may be owned or harbored are those animals native to the farm, such as horses, cattle, swine and poultry, as well as domestic cats, domestic dogs, domestic rabbits, guinea pigs, chinchilla, mice, hamsters, gerbils, psittacine birds and non-carnivorous fish.

Persons who presently own or harbor an exotic or wild animal may keep the animal until the animal's death or until its ownership is transferred outside of this municipality. However, no such person shall keep any such animal unless he registers the same with the City Manager or his designate.

Permission may be given by the City Manager, or his designate, for a person to temporarily keep, care or protect a wild animal native to Ohio which has been deemed to be homeless, provided it is under the care of a licensed veterinarian.

(c) Any animal found to be in violation of this Section may be impounded by the Animal Control Officer and placed in a designated shelter or licensed veterinarian, such impounding, maintenance and destruction expenses shall be at the cost of the owner or other person having charge or control of such animal.

(d) Whoever violates any of the provisions of this Section is guilty of a minor misdemeanor. A separate offense shall be deemed committed each day during or on which a violation occurs or continues. Punishment shall be as provided in Section 698.02.

SECTION 618.15 DISPOSITION OF ANIMALS; ANIMAL CONTROL OFFICER.

(a) The City of Kettering Animal Control Officer and any Kettering Police Officer shall have the authority, within the purview of this Chapter 618, to remove any animal from any property in a safe and humane fashion.

(b) The City of Kettering Animal Control Officer shall have the authority to process and/or dispose of any animal as directed by the Kettering Chief of Police, the Kettering City Manager, the Kettering Law Director or by order of any court of proper jurisdiction.

(c) The Kettering Animal Control Officer shall have the authority to hold any animal at any agency designated for such animal holding for a period of three days, after which time said designated agency may dispose of the animal at its discretion. The Kettering Animal Control Officer may order any animal to be quarantined in a manner and for a length of time determined by the Animal Control Officer so as to protect the health, safety and general welfare of the City.

(d) The authority and power provided under ORC 955.12 to dog wardens shall be the same as the authority and power provided to the Kettering Animal Control Officer by this City and such authority and power may be exercised in all areas located within the then current municipal boundaries of the City of Kettering, regardless of County.

SECTION 618.16 MANAGEMENT OF CAT POPULATION

(a) Trap-Neuter-Return is the preferred disposition for impounded Community Cats. The Animal Control Officer and SICSA are authorized and encouraged to conduct Trap-Neuter-Return or to direct impounded Community Cats to a Trap-Neuter-Return program.

(b) Humanely trapping Community Cats is permitted for the sole purpose of sterilizing, vaccinating for rabies, and eartipping, in compliance with any applicable federal or state law, and under the supervision of a licensed veterinarian.

(c) Unless it can be adopted, an eartipped cat received by SICSA will be returned to the location where trapped unless veterinary care is required. A trapped eartipped cat will be released on site unless the cat requires veterinary care.

(d) Community Cat Caregivers are empowered to reclaim impounded Community Cats without proof of ownership solely for the purpose of carrying out Trap-Neuter-Return and/or returning eartipped Community Cats to their original locations. Such action does not create a property interest for the Community Cat Caregiver in the Community Cat.

(e) A person who adopts or otherwise asserts ownership of a Community Cat, including a person acting as a Community Cat Caregiver, shall be required to comply with all requirements of ownership contained in this Chapter.

(f) A Community Cat Caregiver must follow all regulations, rules, and procedures of the TNR program. The Community Cat Caregiver must follow all requests of the Animal Control Officer with regards to the Community Cat program.

Legislative history: Ord. 3132-84; passed 9/25/84. Ord. 3494-91; passed 5/14/91. Ord. 3515-91; passed 9/24/91. Ord. 4174-11; passed 6/28/2011. Ord. 4251-15; passed 6/23/15. Ord. 4319-19; passed 3/12/19.