

ORDINANCE 2021-09

AN ORDINANCE AMENDING SECTION 6 OF APPENDIX A OF LOCAL REGULATIONS LOCATED IN CHAPTER 618 OF THE CODIFIED ORDINANCES OF THE VILLAGE OF COMMERCIAL POINT RELATING TO THE OWNERSHIP, KEEPING, OR HARBORING OF PIT BULL TERRIERS, AND DECLARING AN EMERGENCY.

WHEREAS, Section 6 of Appendix A of Local Regulations located in Chapter 618 of the Codified Ordinances of the Village of Commercial Point entitled "Dangerous Animals" (hereafter referred to as "Section 6") currently prohibits the ownership, keeping, or harboring of Pit Bull Terriers (as defined under Section 6) within the Village of Commercial Point and provides for penalties for such ownership, keeping, or harboring; and

WHEREAS, various Ohio Districts Courts of Appeal, including the Third District Court of Appeals and the Fifth District Court of Appeals, have declared legislation functionally equivalent to Section 6 to be unconstitutional under Ohio's Constitution due to the fact that the legislation conflicts with the Ohio Revised Code; and

WHEREAS, the Village Council wishes to amend Section 6 to remove the ban on the ownership, keeping, and harboring of pit bull terriers within the Village of Commercial Point.

NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE VILLAGE OF COMMERCIAL POINT, OHIO THAT:

SECTION 1. Section 6(b) of Appendix A of Local Regulations located in Chapter 618 of the Codified Ordinances of the Village of Commercial Point is hereby amended as follows:

(b) *Owning or harboring of vicious dogs.*

(1) No person shall own, keep, or harbor a vicious dog within the municipal limits of the Village of Commercial Point.

(2) **A VICIOUS DOG**, as the term is used in this division means:

A. Any dog that has killed any person or another domestic animal without provocation; or

B. Any dog which attacks and causes serious injury to a human being or another domestic animal one or more times without provocation.

(3) This division is a necessary control to eliminate the risk of attack by vicious dogs on human beings in the Village of Commercial Point, which have become a threat to the health, safety, and welfare of the public in all areas of the Village of Commercial Point; and the lack of knowledge or lack of intent to injure is eliminated as a defense to any violation thereof.

(4) A. Whosoever violates the provisions of divisions (b)(1) through (3) shall be fined not more than one thousand dollars (\$1,000.00).

B. When any person is found guilty of a second offense of this division, such person shall be fined one thousand dollars (\$1,000.00), which fine shall be mandatory, and shall not be suspended or remitted.

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C. In addition to the foregoing penalties, any person who is found guilty of violating this division shall pay all expenses, including shelter, food, veterinary expenses for identification or certification of the breed of the animal or boarding and veterinary expenses necessitated by the seizure of any dog for the protection of the public, and such other expenses as may be required for the elimination of any such dog.

(5) No owner, keeper or person in charge of any animal shall allow or permit such animal to void urine or excrement on any public or private property other than the property of the owner, keeper or person in charge of such animal, except that animals may be allowed or permitted to void urine or excrement between the curbs of public streets or alleys and on vacant, unoccupied and unused public or private land, provided the owner of such unused private land does not publicly and prominently post notice thereon that such acts are prohibited.

(6) No owner, keeper or person in charge of any animal shall fail to pick up and properly dispose of any fecal matter left by his or her animal on any public or private property.

(7) Whoever violates divisions (b)(5) or (6) pertaining to voiding animal excrement shall be fined no more than one hundred dollars (\$100.00).

SECTION 2. All other provisions of Section 6 of Appendix A of the Local Regulations under Chapter 618 not expressly amended in Section 1 of this Ordinance above shall remain in place.

SECTION 3. It is the intent of Council to retain all other references to dogs running at large and nuisance, dangerous, and vicious dogs located in the Codified Ordinances of the Village of Commercial Point, and the penalties associated therewith, including, but not limited to, those provisions found in Chapter 618 and elsewhere in Section 6 of Appendix A of Local Regulations located in Chapter 618 of the Codified Ordinances of the Village of Commercial Point.

SECTION 4. It is hereby found and determined that all formal actions of this Council concerning and relating to the passage of this Ordinance were adopted in an open meeting of this Council and that all deliberations of this Council and of any other committees that resulted in such formal action were in meetings open to the public in compliance with all legal requirements including Section 121.22 of the Ohio Revised Code.

SECTION 5. Because this Ordinance is necessary to protect the pet ownership rights of the citizens of the Village of Commercial Point under the Ohio Constitution and Ohio Revised Code, this Ordinance is declared to be an emergency measure necessary for the immediate preservation of the health, safety, and welfare of the citizens of the Village of Commercial Point and, therefore, shall take effect immediately upon passage.

Vote on Suspension of Readings:

Motion by: Tracy Joiner

2nd: Aaron Grassel

Roll Call:

N/A Jason Thompson

Yes Aaron Grassel

Yes Ryan Mitchem

Yes Nancy Geiger

Yes Tracy Joiner

Yes Laura Wolfe

Vote on Passage of the Ordinance:

Motion by: Tracy Joiner

2nd: Aaron Grassel

Roll Call:

N/A Jason Thompson

Yes Aaron Grassel

Yes Ryan Mitchem

Yes Nancy Geiger

Yes Tracy Joiner

Yes Laura Wolfe

Adopted this 5th day of April, 2021.


Allan D. Goldhardt, Mayor


Wendy Hastings, Fiscal Officer

Approved as to Form:


Joshua Cartee, Village Solicitor