(Mayor Potter)

CITY OF KIRTLAND

ORDINANCE NUMBER 25-O-65

AN ORDINANCE AMENDING SECTIONS 618.01, 618.02, 618.22, 618.25, AND 618.26 OF THE CODIFIED ORDINANCES OF THE CITY OF KIRTLAND TO REGULATE NUISANCE, DANGEROUS, AND VICIOUS DOGS, AND DECLARING AN EMERGENCY.

WHEREAS, Ordinance No. 16-O-60 was passed on May 3, 2017, establishing Kirtland Code of Ordinances §618.01, 618.02, 618.22, 618.25, and 618.26 regulating nuisance, dangerous, and vicious dogs; and

WHEREAS, this Council wishes to amend said sections to provide clarity to various terms and further regulate dogs within the City.

NOW, THEREFORE, BE IT ORDAINED by the Council of the City of Kirtland, County of Lake, State of Ohio, that:

SECTION I: This Council hereby amends the changes in Codified Ordinance Section 618.01 relating to the definitions of animals uses within Chapter 618 of the City of Kirtland's Codified Ordinances; Section 618.02 relating to dogs and other animals running at large; Section 618.22 relating to nuisance dog classification; Section 618.25 relating to objection hearings; Section 618.26 relating to dangerous and vicious dog ownership restrictions as set forth in Exhibit "A" attached hereto and made a part hereof as though fully set forth herein at length.

SECTION II: That the heretofore existing sections of the Codified Ordinances of the City of Kirtland, previously enacted and in force, be amended by the passage of this ordinance, and is hereby replaced as set forth in Section I hereinabove.

SECTION III:

(a) It is 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 of its 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.

(b) This Ordinance is hereby declared to be an emergency measure necessary for the immediate preservation of the public health, safety and welfare of the City, and for the further reason to regulate nuisance, dangerous, and vicious dogs and to protect the residents of the City; wherefore, this Ordinance shall be in full force and effect immediately upon its passage by the affirmative vote of five members of Council and approval by the Mayor, otherwise this Ordinance shall be in effect from and after

its adoption at the earliest period allowed by law.

First Reading: the readings
Second Reading: were waived
Third Reading: _____

DATE PASSED: October 6, 2025

President of Council

Submitted to the Mayor for his Approval on this 20th day of October, 2025.

ATTEST:

Approved by the Mayor this 20th day of October, 2025.

Clerk of Council

Mayor Kevin F. Potter

Amend Chapter 618 re: Dogs

§ 618.01 DEFINITIONS.

(a) For the purpose of this chapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

(1) "Boarding kennel" has the same meaning as in R.C. § 956.01.

(2) "Captive white-tailed deer" has the same meaning as in R.C. § 1531.01.

(3) "Classified dog" in this chapter shall mean a dog that has been previously classified as a potential nuisance dog, dangerous dog, or vicious dog pursuant to this Code, or similar designation in another jurisdiction, under the provisions of R.C. §§ 955.11 et seq. or comparable local ordinance.

(4) "Companion animal" shall mean any animal that is kept inside a residential dwelling and any dog or cat regardless of where it is kept. "Companion animal" does not include livestock or any wild animal.

(5) "Cruelty" has the same meaning as in R.C. § 1717.01.

(6) "Dangerous dog" shall mean any of the following:

A. A dog that has engaged in a "dangerous dog act" as designated by the Chief of Police;

B. A dog that has been designated as a "dangerous dog" in accordance with section 955.222 of the Ohio Revised Code or a dog that has previously engaged in a "dangerous dog act" when evidence of such engagement is presented to a court and the court determines that the dog has engaged in a previous dangerous dog act;

(7) "Dangerous dog act" means one of the following actions committed by a dog 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:

A. Causing injury by physical contact, other than killing or serious injury, to any person in either a menacing fashion or an apparent attitude of attack;

B. Causing serious injury to any person without making physical contact in either a menacing fashion or an apparent attitude of attack;

C. The killing of another domestic animal;

D. Causing serious injury to another domestic animal that results in euthanasia of the animal by a person authorized to perform euthanasia under Ohio law.

(8) "Dog kennel" shall mean an animal rescue for dogs that is registered under R.C. § 956.06, a boarding kennel, or a training kennel.

(9) "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; and other animals as defined by rule by the Ohio Director of Agriculture.

(10) "Federal Animal Welfare Act." The "Laboratory Animal Act of 1966", Pub. L. No. 89-544, 80 Stat. 350 (1966), 7 U.S.C. 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.

(11) "Final determination" shall mean a determination that is not subject to appeal.

(12) "Livestock" shall mean horses, mules, and other equidae; cattle, sheep, goats, and other bovidae; swine and other suidae; poultry; alpacas; llamas; captive white-tailed deer; and any other animal that is raised or maintained domestically for food or fiber.

(13) "Menacing fashion" shall mean a dog that would cause any person being chased or approached to reasonably believe that the dog will cause physical injury to that person.

(14) "Nuisance dog" shall mean any of the following:

A. A dog that has engaged in a "nuisance dog act" as designated by the Chief of Police;

B. A dog that has been designated as such in accordance with section 955.222 of the Revised Code or a dog that has previously engaged in a "nuisance dog act" when evidence of such engagement is presented to a court and the court determines that the dog has engaged in a previous nuisance dog act.

(15) "Nuisance dog act" means one of the following actions committed by a dog, without provocation and while off the premises of its owner, keeper, or harborer, 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:

A. Chasing or approaching a person in either a menacing fashion or an apparent attitude of attack;

B. Attempting to bite or otherwise endanger any person in either a menacing fashion or an apparent attitude of attack;

C. Causing injury to any person without making physical contact in either a menacing fashion or an apparent attitude of attack;

D. Chasing, threatening, harassing, or injuring another dog or livestock in either a menacing fashion or an apparent attitude of attack;

E. Having been the subject of a third or subsequent violation of section § 618.02 within the City of Kirtland or having been convicted of any substantially similar state statute or other substantially similar municipal ordinance.

(16) "Police chief" shall mean the police chief or his/her designee or any person authorized to enforce R.C. Chapter 955.

(17) "Police dog" shall mean a dog that has been trained and may be used to assist one or more law enforcement officers in the performance of their official duties.

(18) "Practice of veterinary medicine" shall have the same meaning as in R.C. § 4741.01.

(19) "Residential dwelling" shall mean 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.

(20) "Serious injury" shall mean any of the following:

A. Any physical harm that carries a substantial risk of death;

B. Any physical harm that involves a permanent incapacity, whether partial or total, or a temporary, substantial incapacity;

C. Any physical harm that involves a permanent disfigurement or a temporary, serious disfigurement;

D. Any physical harm that involves acute pain of a duration that results in substantial suffering or any degree of prolonged or intractable pain.

(21) "Torment" has the same meaning as in R.C. § 1717.01.

(22) "Torture" has the same meaning as in R.C. § 1717.01.

(23) "Unprovoked bite" or "without provocation bite" in this chapter shall mean that the dog was not:

A. Being abused, teased, tormented, or physically threatened or injured by a person;

B. Being abused or physically threatened or injured by an animal;

C. Being aggressively teased or tormented by an animal;

D. Directing its behavior at a trespasser on the property of its owner, keeper, or harborer;

E. Reasonably coming to the defense of a human or domestic animal within the immediate vicinity of the dog and under perceived threat; or

F. Directing its behavior at some domestic animal that was running at large and unattended by some person.

(24) "Vicious dog" shall mean any of the following:

A. A dog that has engaged in a "vicious dog act" as designated by the Chief of Police;

B. A dog that has been designated as such in accordance with section 955.222 of the Revised Code or a dog that has previously engaged in a vicious dog act when evidence of such engagement is presented to a court and the court determines that the dog has engaged in a previous vicious dog act.

C. "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 harborer of the dog.

(25) "Vicious dog act" means one of the following actions committed by a dog 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:

A. The killing of any person;

B. Causing serious injury to any person by physical contact;

C. Engaging in a dangerous dog act after the dog has previously been designated as a dangerous dog under section 618.19 of the Kirtland Codified Ordinances.

(26) "Wild animal" in this chapter has the same meaning as in R.C. § 1531.01.

§ 618.02 DOGS AND OTHER ANIMALS RUNNING AT LARGE.

(a) No person, who is the owner or keeper of, horses, mules, cattle, bison, sheep, goats, swine, llamas, alpacas, poultry or other domesticated animal shall permit them to run at large in the public road, highway, street, lane, or alley, or upon unenclosed land, or cause the animals to be herded, kept, or detained for the purpose of grazing on premises other than those owned or lawfully occupied by the owner or keeper of the animals.

(b) Except as provided in division (g) of this section, no owner, keeper, or harborer of any dog shall fail at any time to do either of the following:

(1) Keep the dog physically confined or restrained upon the premises of the owner, keeper, or harborer by a leash, tether, adequate fence, supervision, or secure enclosure to prevent escape;

(2) Keep the dog under the reasonable control of some person.

(c) A violation of division (b) of this section is a strict liability offense and section 2901.20 of the Revised Code does not apply.

(d) Whoever commits a violation of this section that involves a dog that is not a nuisance dog, dangerous dog, or vicious dog shall be fined not less than twenty-five dollars or more than one hundred dollars on a first offense, and on each subsequent offense shall be fined not less than seventy-five dollars or more than two hundred fifty dollars and may be imprisoned for not more than thirty days. Additionally, the court may order the offender to personally supervise the dog that the offender owns, keeps, or harbors, to cause that dog to complete dog obedience training, or to do both.

(e) Whoever commits a violation of this section that involves a nuisance dog is guilty of a misdemeanor of the fourth degree on the first offense and of a misdemeanor of the third degree on each subsequent offense involving the same dog. Additionally, the court may order the offender to personally supervise the nuisance dog that the offender owns, keeps, or harbors, to cause that dog to complete dog obedience training, or to do both.

(f) Whoever commits a violation of this section that involves a dangerous dog or vicious dog is guilty of a misdemeanor of the third degree on a first offense and of a misdemeanor of the second degree on each subsequent offense. Additionally, the court may order the offender to do either or both of the following:

1. Personally supervise the dangerous dog or vicious dog that the offender owns, keeps, or harbors;

2. Cause that dog to complete dog obedience training. The court, in the alternative, may order the dangerous dog or vicious dog to be humanely destroyed by a licensed veterinarian or the county dog warden at the owner's expense. Until the court makes a final determination and during the pendency of any appeal and at the discretion of the dog warden, the dog shall be confined or restrained in accordance with the provisions of section 955.22 of the Revised Code or at the county dog pound at the owner's expense.

(g) Division (b) of this section does not apply when a dog that has not been designated as a dangerous or vicious dog is lawfully engaged in either of the following:

1. Hunting, provided the dog is accompanied by the owner, keeper, harborer, or handler of the dog;

2. Field trials.

§ 618.22 NUISANCE DOG CLASSIFICATION.

(a) Classification of a dog as a nuisance dog shall be based upon specific behaviors exhibited by the dog. For purposes of this section, behaviors establishing a nuisance dog are the following:

(1) Chasing or approaching a person in either a menacing fashion or an apparent attitude of attack;

(2) Attempting to bite or otherwise endanger any person in either a menacing fashion or an apparent attitude of attack;

(3) Causing injury to any person without making physical contact in either a menacing fashion or an apparent attitude of attack;

(4) Chasing, threatening, harassing, or injuring another dog or livestock in either a menacing fashion or an apparent attitude of attack;

(5) Having been the subject of a third or subsequent violation of section § 618.02 within the City of Kirtland or having been convicted of any substantially similar state statute or other substantially similar municipal ordinance

(b) References to "designated dog" or "classified dog" in this section shall mean a dog classified as a nuisance dog.

(c) The Police Chief shall have authority to determine whether a dog has engaged in the behaviors specified in division (a) of this section. This determination may be based upon an investigation that includes observation of and evidence testimony about the dog's behavior, including the dog's upbringing and the owner's or keeper's control of the dog, and other relevant evidence as determined by the Police Chief. These observations and evidence can be provided by any witness who personally observed the behavior. Such witness shall sign a written statement attesting to the observed behavior and agree to provide testimony regarding the dog's behavior. Forms for providing witness testimony shall be made available at the Police Department.

(d) Upon reasonable determination by the Police Chief that a dog has engaged in a behavior specified in division (a) of this section, the Police Chief shall give the dog's owner or keeper written notice by certified mail or personal service. The notice shall state:

(1) The description of the dog;

(2) The level of classification;

(3) The facts upon which the classification is based;

(4) The availability of a hearing to object to the classification;

(5) The restrictions placed on the dog as a result of the classification;

(6) The penalties for violation of the restrictions; and

(7) The availability of declassification procedures.

(e) Upon receipt of notice of the dog's classification as a nuisance dog pursuant to division (b) of this section, the owner or keeper shall comply with the restrictions as specified in § 618.23.

(f) Notwithstanding division (a) of this section, the Police Chief shall have discretionary authority to refrain from classifying a dog as a nuisance dog, even if the dog has engaged in the behaviors specified in

division (a) of this section, if the Police Chief determines that the behavior was provoked or other similar mitigating or extenuating circumstances existed.

(g) If a dog is classified pursuant to this section, the owner or keeper of the dog shall have the right to an administrative hearing to object to the designation pursuant to Ohio Revised Code Section 955.222.

§ 618.25 OBJECTION HEARINGS.

(a) If a dog is classified by the Chief of Police pursuant to § 618.24, the owner or keeper of the dog shall have the right to an administrative hearing to object to the determination. The hearing shall be heard by the Director of Public Safety. An owner or keeper has ten calendar days from the date listed on the written notice of the determination to inform the Director of Public Safety in writing that a hearing is requested. The Director of Public Safety will schedule the hearing and notify the party requesting the hearing in writing of the time, date, and location of the hearing.

(b) The objection hearing shall be conducted as follows:

(1) Parties may appear pro se or be represented by an attorney.

(2) Parties may present their position, arguments, and contentions, including by making statements, presenting evidence, and offering witnesses on their behalf, on any relevant issue.

(3) Parties may refute evidence and testimony offered in opposition to their position, arguments and contentions, including by making statements, presenting evidence, and offering witnesses on their behalf, of any relevant issue.

(4) Parties shall be entitled to the right of cross-examination.

(5) The hearing shall be quasi-judicial in nature and all testimony shall be under oath.

(6) Any party shall be entitled to transcribe the proceeding at his own cost.

(7) After considering all substantial, reliable and probative evidence accepted for review, the Director of Public Safety shall affirm, deny, or affirm with conditions the determination.

(8) Within five business days of such hearing, the Director of Public Safety shall issue a written decision making a factual finding as to the determination and shall serve the decision upon all parties. The decision of the Director of Public Safety is a final order.

§ 618.26 DANGEROUS AND VICIOUS DOG OWNERSHIP RESTRICTIONS.

(a) No person shall own, keep, maintain, allow, harbor, or permit more than one dangerous dog at any one residence that has been classified as a dangerous dog after committing a dangerous dog act.

(b) No person shall harbor, keep or maintain within the city limits any vicious dog. Any dog designated to be vicious by virtue of an attack upon a human being or any previously designated dangerous dog after committing a second dangerous dog act may be impounded as directed by the Police Department until disposition of the charge is decided by the municipal court. Moreover, the owner of any dog found to be vicious in the trial of a charge of harboring a vicious dog, or by plea to such a charge, shall be prohibited from returning that dog to the city or keeping the dog within the city limits.

(b) The provisions as set forth in Section 959.132 of the Ohio Revised Code pertaining to the impounding and disposition of a companion animal shall apply herein.

(c) Penalty.

(1) Whoever violates division (a) of this section is guilty of a second degree misdemeanor and shall be subject to the penalty provided in § 698.02.

(2) Whoever violates division (b) of this section is guilty of a first degree misdemeanor and shall be subject to the penalty provided in § 698.02.