

BY MR. ZIMMER

NO. 30389-04

AN ORDINANCE

Amending Sections 91.01, 91.07, 91.08, 91.53, and 91.99 of the Revised Code of General Ordinances to Prohibit or Restrict Dangerous, Wild, or Exotic Animals within the City, and Repealing Existing Sections 91.01, 91.07, 91.08, 91.21, 91.53, and 91.99 of the Revised Code of General Ordinances.

WHEREAS, This Commission finds that dangerous, wild, or exotic animals are a threat to the health and safety of Dayton residents; and

WHEREAS, Prohibiting or restricting the ownership and care of dangerous, wild, or exotic animals is necessary for the protection of Dayton residents; now, therefore,

BE IT ORDAINED BY THE COMMISSION OF THE CITY OF DAYTON:

Section 1. That Sections 91.01, 91.07, 91.08, 91.53, and 91.99 of the Revised Code of General Ordinances of the City of Dayton are amended to read as follows:

§ 91.01 Definitions.

As used in this chapter, the following words and phrases shall have the meanings ascribed to them respectively, regardless of whether or not the words and phrases are capitalized:

(A) "Animal" means all types of animals, other than human beings, both domesticated and nondomesticated.

(B) "At Large" means off the premises of the owner.

(C) "Dangerous Dog" means any dog, other than a police dog, which without provocation has a propensity to bite or cause physical harm to a person or pet.

(D) "Dog" means any domesticated member of the canine species, male or female.

(E) "Exotic Animal" means any animal, including a hybrid offspring thereof, not indigenous to the State of Ohio.

(F) "Health Officer" means the Health Commissioners of the Montgomery County Combined Health District, or duly authorized representative.

(G) "Owner" means any person owning, keeping, possessing, harboring, maintaining, or having the care, custody, or control of an animal.

(H) "Pet" means an animal that has been adapted or tamed to live in intimate association with or for the pleasure or advantage of people and includes, but is not limited to dogs, cats, birds, rabbits, and hamsters. Pet does not mean any animal purposely kept as food.

(I) "Physical Harm" means any injury, illness or disease regardless of its gravity or duration.

(J) "Police dog" means a dog owned by a law enforcement officer or agency and trained to assist in the performance of law enforcement duties.

(K) "Serious Physical Harm" means any injury, illness or disease which includes a risk of death; or which requires hospitalization; or which involves some permanent or substantial temporary incapacity or disfigurement; or which involves prolonged or acute and substantial pain.

(L) "Unsecured" means not securely confined indoors, or not securely restrained by means of a collar and chain, pen, fence, or similar physical device, and in such a manner which effectively prevents the animal from going beyond the premises of the owner.

(M) "Vicious Animal" means any animal, other than a dog, which without provocation kills or causes serious physical harm to a person or pet.

(N) "Vicious Dog" means any dog, other than a police dog, which without provocation kills or causes serious physical harm to a person or pet.

(O) "Wild Animal" means any animal, including a hybrid offspring thereof, which is not naturally tamed or domesticated.

(P) "Without Provocation" means that the animal was not teased, tormented, or abused by the person or pet it threatens or harms.

§ 91.07 Prohibited Animals.

(A) No person shall keep, possess, harbor, maintain, or have care, custody, or control of any of the following exotic or wild animals within the city:

- (1) Any animal listed under the Endangered Species Act as threatened or endangered or listed on Ohio's Endangered Wildlife list;
- (2) Any animal, the keeping of which is prohibited by state or federal law;
- (3) Antelope, bison, deer, elk, and moose;
- (4) Badgers, martins, minks, skunks, weasels, otters, and wolverines;
- (5) Bats;
- (6) Bears;
- (7) Beavers, groundhogs, and porcupines;
- (8) Coyotes, foxes, and wolves;
- (9) Any cat of the family *Felidae*, including by way of example and not by way of limitation lions, tigers, jaguars, leopards, cougars, and ocelots, except commonly accepted domesticated house cats;
- (10) Any primate, including by way of example and not by way of limitation chimpanzees, gorillas, lemurs, and monkeys;
- (11) Alligators, crocodiles, caimans, and related crocodilians;
- (12) Snakes
 - i. that are venomous;
 - ii. that are of the family *Boidae* (all species, including by way of example and not by way of limitation all boas, pythons, and anacondas) and more than three (3) feet long; and
 - iii. that, regardless of species, are more than eight (8) feet long;
- (13) Monitor lizards, Gila monsters, and Mexican Beaded lizards;
- (14) Piranhas;
- (15) Scorpions and spiders with venom sufficiently potent to cause serious physical harm to a person.

(B) The prohibition in R.C.G.O. Section 91.07 (A) does not apply to:

- (1) A person licensed or otherwise expressly authorized by state or federal law to keep, possess, harbor, maintain, or have care, custody, or control of an animal identified in R.C.G.O. Section 91.07 (A) (1)-(15);
- (2) A public zoo;
- (3) A traveling circus performing within the city;
- (4) A humane society;

- (5) A veterinary hospital or clinic;
- (6) A college, university, museum, or like institution engaged in bona fide scientific or educational study and research; or
- (7) A person temporarily transporting an animal identified in R.C.G.O. Section 91.07 (A) (1)-(15) through the city if the transit time within the city is not more than 24 hours and the animal is at all times maintained within a confinement sufficient to prevent the animal from escaping.

(C) Any animal found in violation of this section is subject to impoundment, and its owner is responsible for all costs associated with that impoundment.

§ 91.08 Confinement of Exotic or Wild Animals.

No person shall possess or keep within the city an exotic or wild animal, not otherwise prohibited, without safely caging or otherwise confining the exotic or wild animal so as to prevent it from causing serious physical harm to a person or pet.

§ 91.53 Dangerous Dog.

(A) No person shall permit or cause a dangerous dog to be unsecured or at large, or to go unmuzzled in a public place, street, or alley.

(B) Any animal found in violation of this section is subject to impoundment, and its owner is responsible for all costs associated with that impoundment.

§ 91.99 Penalty.

(A) Any person who violates a section of this chapter for which no penalty is specified is guilty of a minor misdemeanor.

(B) Any person who violates section 91.02 or 91.08 is guilty of a misdemeanor of the second degree.

(C) Any person who violates section 91.14 or 91.50(A)(3) or 91.53 is guilty of a misdemeanor of the fourth degree.

(D) Any person who violates section 91.60 or 91.61 shall pay a fine not less than \$10 nor more than \$25.

(E) Any person who violates section 91.50(A)(1) or (2) is guilty of a minor misdemeanor for a first offense, and a misdemeanor of the fourth degree for each subsequent offense.

(F) Any person who violates section 91.50(A)(4) is guilty of a misdemeanor of the third degree.

(G) Any person who violates section 91.07, 91.11, 91.50(A)(5), and 91.50(B) is guilty of a misdemeanor of the first degree. Upon a subsequent violation within five years, a person shall serve a minimum term of at least three (3) days imprisonment and pay a fine of at least \$500, no part of which imprisonment or fine shall be suspended.

(H) Any person who violates section 91.50(C) is guilty of a misdemeanor of the second degree.

(I) Each day that a violation of any section of this chapter continues is a separate offense.

Section 2. That existing Sections 91.01, 91.07, 91.08, 91.21, 91.53, and 91.99 of the Revised Code of General Ordinances are hereby repealed.

PASSED BY THE COMMISSION SEPTEMBER 22, 2004

SIGNED BY THE MAYOR SEPTEMBER 22, 2004



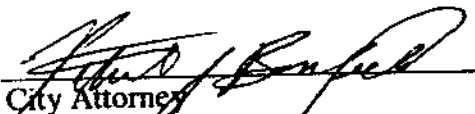
Mayor Rhine McLin, City of Dayton, Ohio

ATTEST:



Clerk of the Commission

APPROVED AS TO FORM:



City Attorney