



## **GUIDELINES RELATING TO PROBLEM DOGS**

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### **A. Who To Call When Having A Problem With A Dog.**

- If during the business hours of Monday through Friday, 10:00 a.m. to 6:00 p.m. and Saturday, 10:00 a.m. to 4:00 p.m., call the Montgomery County Animal Resource Center (MCARC) at 937-898-4457.
- Or call your local police department.
- Or call 911 if need emergency assistance.

### **B. What Can MCARC Or The Police Do?**

- Catch and contain the dog.
- Interview witnesses and gather evidence to determine if citations should be issued to the dog's owner.
- Determine whether the dog should be designated a nuisance, dangerous, or vicious dog. These designations are defined by Ohio law in the Ohio Revised Code (O.R.C.) and may result in special licensing and containment requirements being placed upon the dog's owner. In general, a nuisance dog is a dog that has acted in a menacing way but has not bitten anyone. A dangerous dog is a dog that has caused physical harm to a person, or killed another dog. A vicious dog is a dog that has caused serious physical harm to, or caused the death of a person.

- If a designation is appropriate, the officer will complete a designation form to give to the dog's owner. The form will explain what the designation means and the dog owner's rights and obligations.

### **C. What Can You Do To Help?**

- Give a written statement or a sworn affidavit providing the details of the incident.
- If necessary, appear in court and testify if the dog's owner requests a hearing on the dog's designation or if a criminal case is brought against the dog owner.

### **D. What Happens If You Harm A Dog?**

- A person who kills a dog could be charged with one or more of these crimes:

1. Cruelty to Companion Animals (O.R.C. 959.131)
2. Injuring Animals (O.R.C. 959.02)
3. Poisoning Animals (O.R.C. 959.03)

- However, the following are factors that would be considered in deciding whether a person should be charged with a crime or found guilty if charged with a crime:

1. O.R.C. 955.28, states a dog can be killed if the dog is chasing or approaching a person in a menacing/attacking fashion, attempting to bite or endanger a person, or injuring or killing a person. The same is true if the dog chases, threatens, harasses, injures, or kills livestock, poultry, or another animal other than a dog or cat, that is on someone's property.

2. Whether a person is charged with or convicted of a crime if a dog is killed when attacking another dog or a cat would depend on if the person acted maliciously or willfully, if the killing of the dog was needless, or if the person caused unnecessary or unjustifiable pain or suffering to the dog. It is very important to remember that the determination of whether the killing of a dog is justified would be made on a case by case basis. Killing a dog may result in you having to defend your actions in court.

3. O.R.C. 959.04 states that the crimes of Injuring Animals and Poisoning Animals do not apply to a person who kills or injures an animal to prevent the animal from trespassing upon another's "enclosure" or while driving an animal away from another's "premises." However, to avoid charges, within 15 days of the trespassing animal being injured or killed, payment must be made for the damages done to the animal – less the amount of damage to your property caused by the trespassing animal – or a sufficient sum of money is deposited with an appropriate court to cover such damages.

- In addition to possible criminal charges, you could also be sued civilly by the owner for wounding or killing a registered dog (or dog that is exempt from registration requirements).

#### **E. Your Responsibilities If You Kill A Dog.**

- If a citizen kills a dog to prevent that dog from causing further injury or death to a person, and that dog has bitten a person, 1) the board of health must be notified and given the facts and circumstances of the dog's death immediately; and 2) the body of

the dog must be held until the board of health claims it to perform tests for rabies. See, O.R.C. 955.261(A)(3).

- Be advised, that if a dog that has bitten a person is NOT causing a risk of further injury or death, O.R.C. 955.261(A)(2) prohibits a person from killing that dog until a mandatory 10-day quarantine period has been completed.

*The purpose of these guidelines is to provide information as a public service. These guidelines are not intended to give legal advice. Remember, each situation is fact sensitive and any criminal charges or civil liability would be determined on a case by case basis depending on the facts present.*