



HANDBOOK

Ohio County Commissioners

Published by: County Commissioners Association of Ohio

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CHAPTER 127

ANIMAL CONTROL

Latest Revision
June, 2018

127.01 INTRODUCTION

The responsibility of the county to enforce and administer Ohio's dog laws can be one of the more emotionally charged issues county commissioners confront. The county responsibility to register, apprehend, impound, reunite dogs with their rightful owners, and develop adoption programs must be performed with consideration and care, by qualified and trained staff and volunteers.

Likewise, the proper management and maintenance of the county animal shelter, and the professional use of accepted euthanasia techniques, when necessary, is vital and will help to avoid damaging public relations issues, intervention by animal humane advocates, and public outrage. CCAO encourages commissioners to work closely with the county auditor and the dog warden in the administration of ORC Chapter 955 (Ohio's dog laws) as assistance and cooperation of these officials are essential in administration of the law.

"Man's best friend" can create a myriad of challenges in both rural and urban counties. In addition to the traditional responsibilities performed by counties, the Ohio General Assembly has expanded county responsibility in a variety of areas, including new requirements under Ohio's recently amended dangerous and vicious dog law and authority under ORC Chapter 956 dealing with the standards of care governing high-volume dog breeders.

This Chapter of the *Handbook* will address a number of topics concerning dogs, including options for administration of Ohio's dog laws; registration of dogs and kennels;

establishment and modification of registration and other fees; penalties for late registration; transfer of dogs; funding and eligible uses for the dog and kennel fund; animal claims; the impounding, disposition, or humane destruction of dogs; dangerous and vicious dogs; contracts with municipalities; rabies quarantines and required vaccinations; and, relationships with humane societies. Ohio's dog laws are codified primarily in ORC Chapter 955. In addition, some provisions of ORC Chapters 956 and 1717 deal with other dog laws of interest to counties.

127.02 RESPONSIBILITY AND AUTHORITY OF COUNTY COMMISSIONERS

The ultimate responsibility for properly administering those Ohio dog laws for which county government is responsible rests with the board of county commissioners. The county commissioners have the following basic responsibility and authority relative to dogs:

1. To provide suitable equipment to take dogs in a humane manner.
2. To provide a suitable place to impound dogs.
3. To make proper provision for caring and feeding of dogs that are seized and impounded.
4. To provide humane methods and devices for destroying dogs. If a humane society exists, has humane agents, and maintains a suitable animal shelter and devices for humanely destroying dogs, the county need not duplicate these facilities, and the dog warden may use these facilities. The attorney general has ruled (OAG 90-473) that commissioners have discretion to use the humane society shelter if they determine that the humane society shelter and the services provided by that shelter are suitable for carrying into effect the purposes of the law. The commissioners must provide reasonable compensation to the humane society from the dog and kennel fund (ORC 955.15).
5. To extend the dog and kennel registration fees beyond January 31. This action must be taken by resolution as it waives the late fee, which is equivalent to the cost of the tag. Prior to extending the registration period, consideration should be given the auditor's licensing program, communication of the extension to the dog owning public, and potential compliance confusion issues with the general public in subsequent years.
6. To adopt and enforce resolutions to control dogs in the unincorporated area of the county if they do not conflict with any other provision of the Ohio Revised Code. Resolutions can deal with such issues as ownership, keeping or harboring of dogs; restraint of dogs; dogs as public nuisances; or, as a threat to public health, safety and welfare. These resolutions cannot apply while dogs are hunting or training for hunting with a licensed hunter. This authority was originally enacted in response to dangerous or vicious dog problems, however,

with the enactment of Ohio's new dangerous and vicious dog law, the authority to address the issue of dangerous dogs has been limited further by state law. This provision of law has been interpreted to include authority to establish a program where dogs made available for adoption must be spayed or neutered (OAG 90-107).

Township trustees have been granted the same authority, but only if the board of commissioners has not exercised its authority. If commissioners adopt resolutions exercising their authority after township trustees have acted, the resolutions of the commissioners prevail over those of the trustees (ORC 955.221).

Finally, commissioners may enter into a contract with the Director of Agriculture to seize and impound dogs kept by high volume breeders or dog retailers licensed under ORC Chapter 956 if the Director determines the operator is in violation of this law or rules adopted by the Director. Shelters for dogs operated by a county under ORC Chapter 955 are not required to obtain a license under ORC Chapter 956 or comply with any other requirements and rules adopted under this chapter.

127.03 OPTIONS FOR COMMISSIONERS TO PERFORM STATUTORY RESPONSIBILITIES

Ohio law provides three organizational options for the board of commissioners to perform its responsibilities to administer Ohio's dog laws and to provide services to the residents of the county. Following are the options:

1. Appointment of County Dog Warden - The commissioners may appoint a dog warden and such deputies as required and may fix their compensation. Dog wardens and deputies must give bond in an amount set by the commissioners of at least \$500, but not more than \$2,000. The bonds may be individual or blanket bonds, and must be filed with the county auditor (ORC 955.12).

For purposes of civil service, the position of dog warden may be in either the classified or unclassified service depending on the duties of the dog warden or how the department is organized. If a dog warden is directly responsible to the county commissioners or a county administrator and performs a fiduciary or administrative function for them, then the position would meet the exemption under ORC Section 121.11 (A) (9), and would be in the unclassified position. If the dog warden serves as a department head, ORC Section 124.12 (A) (3) (b) provides that they are unclassified. The department head exemption was enacted March 30, 2007. Otherwise, the position of dog warden would be placed in the classified civil service. For additional information regarding civil service law as well as classified and unclassified employment, please see Chapter 63 of this *Handbook*.

There are no general statutory training requirements for dog wardens and deputy dog wardens in Ohio law. Dog wardens and deputies must, however, successfully complete a euthanasia technician certification course offered by the State Board of Pharmacy and approved by the Ohio Veterinary Medical Licensing Board if this method of euthanasia is being used in the county (ORC 4729.531 & 4729.532; see also Section 127.13 of this Chapter). In addition, if dog wardens and deputies carry a gun, firearms training is highly recommended, although not statutorily required. Firearms training will protect the county against any potential liability issues.

Finally, dog wardens and deputy dog wardens “have the same police powers as are conferred upon sheriffs and police officers in the performance of their duties. . .” (ORC 955.12). In addition, they have the authority to summon the assistance of bystanders and power to arrest under ORC Chapter 955 (OAG 74-084). Given this significant responsibility and law enforcement authority, training is a must to avoid potential liability to the county.

Data from the 65 county members of CCAO’s property and liability self-insurance pool, CORSA, the County Risk Sharing Authority, reveals that dog wardens and deputies in 48 counties carry firearms. Also, while the Attorney General (OAG 88-071) has ruled that dog wardens do not have to receive certification from the Ohio Police Officer Training Academy (OPOTA), dog wardens and deputies in 28 of those 65 counties do have OPOTA certification. CCAO encourages counties that employ a dog warden or deputy that carries a firearm to have the warden or deputy receive instruction from a certified firearms instructor. The Ohio County Dog Warden’s Association (OCDWA) hosts firearms instruction for new and veteran dog wardens and deputies on an annual basis. Individual counties may also arrange to have a certified firearms instructor provide training to dog wardens and deputies. If your dog warden or deputy dog warden is not an individual required to complete OPOTA training, CORSA encourages member counties to have these individuals obtain firearm certification at a minimum if they carry a firearm.

2. Appointment of County Sheriff as the Dog Warden - Legislation enacted in 2013 allows county commissioners to appoint the county sheriff as the dog warden to enforce dog laws. If the commissioners choose this option, a written agreement must be executed between the sheriff and the commissioners. The agreement cannot exceed a two year period, and may only be entered into at the first commissioners’ meeting in the calendar year following a general election when a commissioner is elected. The agreement may authorize the following:
 - a. The sheriff to appoint sheriff’s deputies or persons other than peace officers as deputy dog wardens.

- b. The transfer of any benefits accrued by the dog warden, deputy dog wardens and other employees if current employees are transferred to the sheriff's office.

In addition, the agreement should also include provisions that detail how the system will operate under the sheriff. It is especially important to address budget and appropriation issues such as how the salary of deputies will be allocated and accounted for; whether the salaries of individuals serving as deputy dog wardens will be paid from the dog and kennel fund or from the sheriff's general fund salary line item and then reimbursed from the dog and kennel fund; how and when the costs will be reimbursed or paid; how supplies and equipment will be procured and budgeted for; and, how costs will be allocated for the use of vehicles that may be used for both law enforcement and dog and kennel purposes.

If the sheriff becomes the dog warden and appoints deputy sheriffs' as deputy dog wardens, both the sheriff and the deputies must comply with training requirements applicable to the dog warden and deputy dog wardens and other requirements specified in ORC Section 955.12. For additional information refer to Section 127.13 of this Chapter.

If the sheriff or deputy sheriffs are appointed dog wardens or deputy dog wardens, all references to dog warden or deputy dog warden in ORC Chapters 953, 955, 956, and 959 also refer to the sheriff or deputy sheriff (ORC 955.121).

Prior to the adoption of this authority in 2013, some counties had interpreted prior law to permit a board of commissioners through an agreement with the county sheriff to appoint a sheriff or deputy sheriff as the county dog warden. The attorney general ruled in 1919 (Volume 1, p. 994) that deputy sheriffs may perform duties under the dog registration law and also act as regular deputies. In counties where the board of commissioners designated the county sheriff or a deputy sheriff as the county dog warden prior to September 29, 2013, the effective date of the new law, or, if the commissioners and sheriff entered into an agreement after the effective date of the new law, commissioners should discuss the situation with the county sheriff and the county prosecutor and take any action recommended by the county prosecutor to ensure that the county has complied with the provisions of the new law.

3. Designation of Humane Society Agents to Act as Dog Warden - Commissioners also may designate and appoint humane officers regularly employed by a humane society organized under ORC Sections 1717.02-1717.05 to act as the county dog warden or deputy wardens. This authority is contingent upon the humane society owning or controlling a suitable place for keeping and destroying dogs (ORC 955.15).

One issue that has been unclear is whether the county has the authority to contract with a humane society to perform responsibilities for the county when the county owns the shelter. Counties desiring to pursue this approach to administration should consult with the county prosecutor. Following is a copy of ORC Section 955.15 with emphasis added by CCAO.

The board of county commissioners shall provide nets and other suitable devices for the taking of dogs in a humane manner, provide a suitable place for impounding dogs, make proper provision for feeding and caring for the same, and provide humane devices and methods for destroying dogs. In any county in which there is a society for the prevention of cruelty to children and animals, having one or more agents ***and maintaining an animal shelter suitable for a dog pound and devices for humanely destroying dogs***, the board need not furnish a dog pound, but the county dog warden shall deliver all dogs seized by him and his deputies to such society at its animal shelter, there to be dealt with in accordance with law. The board shall provide for the payment of reasonable compensation to such society for its services so performed out of the dog and kennel fund. The board may designate and appoint any officers regularly employed by any society organized under sections 1717.02 to 1717.05 , inclusive, of the Revised Code, to act as county dog warden or deputies for the purpose of carrying out sections 955.01 to 955.27 , inclusive, and 955.29 to 955.38, inclusive, of the Revised Code, ***if such society whose agents are so employed owns or controls a suitable place for keeping and destroying dogs.***

ORC Section 959.132 provides for the impounding and disposition of companion animals who have been subject to inhumane treatment. Companion animals are defined by ORC Section 959.131 to include dogs, cats, and any animal that is kept inside a residential dwelling. ORC Section 959.132 (B) protects counties from having to accept such animals without the consent of the board of commissioners.

No officer or impounding agency shall impound a companion animal that is the subject of an offense in a shelter owned, operated, or controlled by a board of county commissioners pursuant to Chapter 955 of the Revised Code unless the board, by resolution, authorizes the impoundment of such a companion animal in a shelter owned, operated, or controlled by that board and has executed, in the case when the officer is other than a dog warden or assistant dog warden, a contract specifying the terms and conditions of impoundment.

127.04 POWERS AND DUTIES OF DOG WARDENS

Dog wardens and deputies have the general responsibility to enforce ORC Sections 955.01-955.27, 955.29-955.38, and 955.50-955.53. Following are the statutory duties of the county dog warden and deputies:

1. To keep a record of all dogs owned, harbored or kept in the county (ORC 955.12).

2. To submit a weekly written report to the county commissioners containing the following information:
 - a. Number of dogs seized.
 - b. Number of dogs impounded.
 - c. Number of dogs redeemed.
 - d. Number of dogs destroyed.
 - e. Number and amount of animal claims received (ORC 955.12).
3. To keep a record of all dogs impounded, their disposition, the owners' name and address, and a summary of the costs assessed. This must be filed quarterly with the county treasurer. (ORC 955.16 (E)).
4. To patrol the county and seize and impound all dogs found running at large and all dogs over three months old not wearing a valid registration tag. The following exceptions to this responsibility include:
 - a. Dogs wearing a valid registration tag that are on the premises of the owner of the dog and under reasonable control of the owner or another person, except in the case of a natural disaster.
 - b. Dogs hunting with their owner or handler.
 - c. Dogs constantly confined to a registered kennel or a high volume breeder licensed under ORC Chapter 956.
 - d. Dogs acquired by non-profits that train assistance dogs and dogs acquired by an Ohio non-profit teaching and research institution or organization.
5. To investigate claims for damages to animals.
6. To assist citizens in filing animal claim forms for animal loss or injury caused by a coyote or a black vulture.
7. To register dogs and kennels, if deputized by the county auditor.
8. To serve legal papers with reference to enforcing dog laws.
9. To assist health officials in enforcing a rabies quarantine order (ORC 955.26).
10. To assist health officials in enforcing a rabies vaccination order (ORC 955.26).

11. To seize and impound dogs after a person files an affidavit in court concerning dogs running at large or not having a valid registration. This authority is contingent upon issuance of a court order.
12. To enter into a contract with the Director of Agriculture to seize and impound dogs kept by high volume breeders or dog retailers licensed under ORC Chapter 956 if the Director determines the operator is in violation of this law or rules adopted by the Director
13. To apply to the common pleas court to enter the premises of the owner or keeper or a dog and seize a dog if the dog warden believes that a dog is being treated inhumanely. If the court believes there is probable cause, it will issue the order (ORC 955.12).
14. To report any violations of ORC Chapter 956, the high volume breeder licensure law, to the Director of Agriculture if the violations are apparent when the dog warden is performing investigations and inspections under ORC Chapter 955.
15. To designate dogs as nuisance, dangerous or vicious dogs, subject to appeal by the owner to a municipal or county court (ORC 955.222).

127.05 CONTRACTS WITH MUNICIPALITIES

Municipalities have the authority to enact animal control ordinances pursuant to the home rule amendment of the Ohio Constitution (Article XVIII, Section 3). ORC Section 955.221, however, provides that municipalities may only adopt ordinances “that are not otherwise in conflict with any other provisions of the Revised Code.” In addition, ORC Section 715.23 authorizes municipalities “to regulate, restrain, or prohibit the running at large, within the municipal corporation, of cattle, horses, swine, sheep, goats, geese, chickens, or other fowl or animals, impound and hold the fowl or animals, and, on notice to the owners, authorize the sale of the fowl or animals for the penalty imposed by any ordinance, and the cost and expenses of the proceedings.” All of these powers, however, are subject to limitation in ORC Section 955.221.

A county may contract with a municipality that has adopted an animal control ordinance for the enforcement of the municipal animal control ordinance pursuant to ORC Section 307.15. The contract with the city or village may provide that the county will use its animal shelter for housing, selling or disposing of such animals or dogs. If the municipal ordinance deals with the control of cats, the county may assume this responsibility also, but only within the boundaries of the municipality, not in the unincorporated area of the county. Monies that the county receives from the contract can be deposited in the general fund, or a special fund may be established with the approval of the State Auditor (OAG 81-037). Pursuant to ORC Section 307.15 a county and a municipality may contract whereby the municipality assumes responsibility for performing the duties of the county dog warden within the municipal limits. For a thorough discussion of

options for counties and municipalities with respect to enforcing dog laws and municipal ordinances, see OAG 84-034.

If county commissioners contract with a municipality to enforce an ordinance dealing with the control of cats, the county must ensure that only municipal monies are used for this responsibility. The dog and kennel fund may not be used for cat control and care purposes.

127.06 DOG AND KENNEL FUND

The dog and kennel fund is a special fund in the county treasury. All registration fees and penalties and most other revenue received by the dog warden, including revenue received from the animal shelter, and fine money collected as a result of the violation of certain dog laws are deposited in this fund (ORC 955.19, 955.44).

It should be noted that the dog warden is not authorized to accept a “gift, devise or bequest” for the dog and kennel fund, only county commissioners can accept such “donations”. The Attorney General, in Opinion 2011-033, addressed this issue along with other sources of revenue and whether the money should be deposited in the dog and kennel fund. This opinion should be referred to for additional information. Accounting of monetary donations requires receipts and deposits with the county treasurer. The attorney general’s opinion creates certain practical problems with respect to the receipt of donations and personal property by the county. Commissioners may wish to work with the county prosecutor in developing a standard donation form for the receipt of personal property (for example, dog food) and donations accepted by the board of commissioners on behalf of the county and the dog and kennel fund.

Finally, any funds reimbursed to the county by the Department of Agriculture for high volume breeders licensed by the Department also are deposited into the dog and kennel fund.

Following are the authorized expenditures from the dog and kennel fund:

1. To pay for salaries and benefits for the dog warden, deputies, and other employees.
2. To pay for equipment and supplies of the dog warden and animal shelter.
3. To pay for animal claims allowed.
4. To pay the county auditor's office for tags, forms, records and employees engaged in dog related functions.
5. To defray the necessary expenses for registering, seizing, impounding, and destroying dogs.

6. To make payments to humane societies at the end of the year pursuant to ORC 955.27. This will be explained in more detail in a subsequent Section.

ORC Section 955.20 reads as follows:

The registration fees provided for in sections 955.01 to 955.14 of the Revised Code constitute a special fund known as "the dog and kennel fund." The fees shall be deposited by the county auditor in the county treasury daily as collected. Money in the fund shall be used for the purpose of defraying the cost of furnishing all blanks, records, tags, nets, and other equipment, for the purpose of paying the compensation of county dog wardens, deputies, pound keepers, and other employees necessary to carry out and enforce sections 955.01 to 955.261 of the Revised Code, and for the payment of animal claims as provided in sections 955.29 to 955.38 of the Revised Code, and in accordance with section 955.27 of the Revised Code. **The board of county commissioners, by resolution, shall appropriate sufficient funds out of the dog and kennel fund, not more than fifteen per cent of which shall be expended by the auditor for registration tags, blanks, records, and clerk hire, for the purpose of defraying the necessary expenses of registering, seizing, impounding, and destroying dogs in accordance with sections 955.01 to 955.27 of the Revised Code, and for the purpose of covering any additional expenses incurred by the county auditor as authorized by division (F)(3) of section 955.14 of the Revised Code.**

If the funds so appropriated in any calendar year are found by the board to be insufficient to defray the necessary cost and expense of the county dog warden in enforcing sections 955.01 to 955.27 of the Revised Code, the board, by resolution so provided, after setting aside a sum equal to the total amount of animal claims filed in that calendar year, or an amount equal to the total amount of animal claims paid or allowed the preceding year, whichever amount is larger, may appropriate further funds for the use and purpose of the county dog warden in administering those sections.

The law is unclear as to whether the 15% requirement is calculated on the amount of money in the dog and kennel fund, or the amount that the commissioners appropriate from the fund each year. The statute appears to be clear, however, that the auditor is not entitled to 15%, irrespective of which calculation base is used, if actual documented expenses do not equal 15%.

In addition, the auditor is also entitled to funds from the dog and kennel fund for additional expenses for internet registration. Funding to the county auditor for this purpose, however, is limited to costs not covered by administrative fees, or convenience fees, or surcharges for payment by credit cards and other financial transaction devices. Please refer to the highlighted text of ORC Section 955.20, above. Commissioners also are encouraged to consult with the county prosecutor regarding interpretation of this law.

If the initial appropriation out of the dog and kennel fund for authorized purposes is not adequate, the commissioners may appropriate further funds. However, commissioners must first set aside the larger of either the amount of animal claims filed during the year or the total amount of claims allowed in the prior year, whichever is larger.

Not later than October 15 of each year, the board of commissioners must determine if there is sufficient money in the dog and kennel fund, after paying the cost of

administering the dog law in that year and the estimated cost for the remainder of the year, to pay costs associated with animal claims for the year. If the board concludes that there is not sufficient money in the dog and kennel fund to pay animal claims for the year, the board must provide by resolution for the payment of all unpaid claims out of the general fund and such payments may be replaced by the board from the dog and kennel fund at any time during the following year. Prior to June 1, 1998, the law (ORC 955.14 amended by Sub. HB 219 of the 122nd General Assembly) required the board of commissioners to replace all money paid out of the general fund for animal claims from the dog and kennel fund by February 20 of the following year. In 1998 this law was changed to make repayment of funds drawn from the general fund to pay animal claims permissive so that in effect commissioners could subsidize the operation of the dog and kennel fund from the general fund.

127.07 DOG AND KENNEL REGISTRATION

Any person who owns, keeps, or harbors a dog more than three months old must file an application for registration of the dog. The registration period is open between December 1 and January 31 of the following year. The application is filed with the county auditor (ORC 955.01). The county commissioners may extend the registration period by resolution.

The application filed with the county auditor must include the age, sex, color, character of hair, whether short or long, and breed of the dog, if known. The application also must include the name and address of the dog owner. In addition, if state or local health authorities have determined that rabies is prevalent and have issued an order requiring rabies vaccination, then proof that the dog was vaccinated must be demonstrated before the registration is issued (ORC 955.26).

Dog owners now have the option to apply for either a one-year registration, a three-year registration, or a “permanent registration.” Under former law all registrations were for a period of one-year. These new options commenced with the 2014 registration period with the enactment of Am. Sub. HB 59 of the 130th General Assembly. In the case of one-year and three-year registrations, the license expires on January 31 one or three-year following its issuance. In the case of a permanent registration, it is valid for as long as the dog for which the registration was issued is living.

Within 30 days after a dog is acquired between January 31 and July 1 and within 90 days if acquired after July 1, the owner is required to register the dog and pay the appropriate registration fee. At the discretion of the owner, the registration may be for one-year (the current year), or three-year (the current year and two additional years), or may be a permanent registration good for the life of the dog.

HB 483 adopted in 2014 (Effective, 9-15-14) clarifies that three-year and permanent registrations may be issued after the regular annual registration period concludes on January 31, or a later date as set by the commissioners. For more information on three-year and permanent registrations refer to County Advisory Bulletin 2013-02. For more

information on partial year registrations, please refer to Section 127.072 of this *Handbook*. To assist county officials in understanding the various options for registering dogs, Exhibit 127 – 1 and Table 127-1 are included at the end of this Chapter.

Kennel owners also must apply for a kennel registration, however, all kennel registrations are limited to a period of one-year. Kennel registration entitles the owner to five tags. Additional tags are available for an additional fee of \$1 per tag.

A kennel is defined as an establishment that keeps, houses, and maintains adult dogs, as defined in ORC Section 956.01 for the purpose of breeding the dogs for a fee or other consideration received through a sale, exchange, or lease. A kennel does not include a high volume breeder licensed by the Ohio Department of Agriculture under ORC Chapter 956. A high volume breeder is an establishment that keeps adult breeding dogs that produce at least nine litters of puppies in a calendar year and sells 60 or more adult dogs or puppies a year.

127.071 PENALTY FOR LATE REGISTRATION OF DOGS AND KENNELS

If the owner of a dog or kennel does not file an application for registration and pay the fee by January 31 of the year when the registration expires, the county auditor is required by state law to assess a penalty equal to the amount of the registration fee (ORC 955.01(B)). The county auditor does not have discretion to waive this penalty unless the county commissioners have extended the registration deadline beyond January 31.

HB 483 enacted in 2014 clarifies that the late registration penalty is equal to the registration penalty for one-year and thus is not equivalent to the registration amount for three-year or a permanent registration.

127.072 REGISTRATION AFTER JANUARY 31 AND PARTIAL YEAR REGISTRATIONS

After the close of the regular registration period, January 31 of any year, anyone who becomes the owner, keeper, or harbinger of a dog older than three months of age must immediately file an application for registration for the remainder of the year (ORC 955.05). The application must be filed and the fee paid within 30 days after the dog is acquired, becomes three months of age, or is brought into Ohio from another state, except when registered after July 1 (See below). These same procedures apply to a person who becomes the owner of a kennel after January 31.

During the first partial year, the dog must be registered for one-year, three-year, or permanently. In the case of a kennel registered after January 31, the owner must obtain a new annual kennel registration the next year. In both cases, if the application is not filed and the fee paid within 30 days, the county auditor is required to assess a penalty equal to the amount of the registration fee.

HB 483, effective 9-15-14, makes changes to partial year registrations (ORC 955.06). The owner of a dog which becomes three months of age or that is acquired after July 1 of any year, must also register the dog for the remainder of the calendar year, or register the dog for three-year, or as part of a permanent registration. If the owner of the dog elects to register the dog for a partial year after July 1, then the registration fee is 50% of the normal one-year fee established by the county (ORC 955.01). If the owner of the dog elects to register the dog for the remainder of the current year and two additional years, then the registration fee is 83% of the normal three-year fee established by the county. Lastly, the owner may register the dog as a permanent registration; there is no partial fee for a permanent registration. If the owner of the dog elects to register the dog for a partial year, at the conclusion of that partial year registration, the dog must be registered for a one-year, three-year, or permanent registration.

The owner of the dog is given 90 days to register for a partial year after July 1 of any year (ORC 955.06). Kennel registrations are not eligible for the 50% discount if registered after July 1. The legislative change to ORC 955.06 provides a longer time for a new owner to register a dog after July 1 (90 days) than what is provided for a new owner after January 31 but before July 1 as specified in ORC 955.01 (30 days).

If a dog is registered in one county and the owner moves in the middle of the year, the dog need not obtain a registration in the new county until the following year (OAG 89-027). Likewise, a dog that is registered for a three-year or permanent license need not be obtain a registration in the new county until the expiration of the three-year period in the other county, and permanent registrations remain valid in the new county for as long as the dog is living.

127.073 REGISTRATION OF DANGEROUS DOGS

Dangerous dogs, as defined in ORC Section 955.11, also must be registered with the county auditor. Dangerous dogs must be registered annually to anyone at least 18 years of age. The application for a dangerous dog includes the following:

1. The applicant's address, phone number, and other appropriate means to contact the person.
2. Evidence that the dog has a current rabies vaccination or a statement from a licensed veterinarian that a rabies vaccination is not advisable for the dog.
3. Evidence that the dog has been neutered or spayed, or a statement from a licensed veterinarian that neutering or spaying is not advisable for the dog.
4. Evidence that the applicant has posted and will continue to post clearly visible signs at the applicant's residence warning that a dangerous dog is on the property.

5. Evidence that the dog has been permanently identified by a microchip and the microchip number.

If an owner relocates to another county, the owner must give written notice of the new address and a copy of the original dangerous dog registration certificate to the county auditor of the new county within 10 days of moving. The owner must give notice of the new address to the county auditor of the county that issued the original dangerous dog registration certificate within 10 days of moving. Upon the expiration of the certificate issued in the original county, the owner must renew the dangerous dog registration in the new county.

If the owner of a dangerous dog relocates to a new address in the same county, the owner must provide notice of the new address to the county auditor within 10 days of moving.

127.074 EXEMPTIONS FROM REGISTRATION OR PAYING REGISTRATION FEES

Ohio law exempts certain persons and organizations from the general requirement to register dogs or pay registration fees established by county commissioners. Following is a summary of those dogs that are exempt either from registration or from paying the registration fee:

1. Registration of dogs held by a non-profit animal shelter if it is exempt from federal income tax under IRC Section 501(c)(3) (ORC 955.01(C)). Also refer to Section 127.121 dealing with Animal Rescue Groups and Individuals.
2. Registration of an "assistance dog" also is exempt from paying the registration fee. An assistance dog is one that is trained to help persons who are mobility impaired, blind, or hearing impaired. Certificates of registration and dog tags must be stamped "Ohio Assistance Dog-Permanent Registration." Certificates of Registration and dog tags that were issued under the former law and are stamped "Ohio Guide Dog," "Ohio Hearing Dog," "Ohio Handicapped Assistance Dog," or "Ohio Service Dog," which also provided for permanent registration, remain in effect as a valid registration, but all new certificates of registration and dog tags are now stamped as specified above (ORC 955.011).

Likewise, a dog released from the county animal shelter to a non-profit agency that trains assistance dogs after the dog was held for redemption does not have to be registered as long as the dog is being trained (ORC 955.16(B)). After the dog is trained, the dog must be registered, but no fee is charged.

3. Registration of a "law enforcement canine" also is exempt from the collection of a registration fee, but must be registered. A law enforcement canine is a dog regularly used by a law enforcement agency and has been properly trained for general law enforcement purposes, tracking, or detecting controlled substances

or explosives. While law enforcement canines are exempt from registration fees, they are subject to both the fee and penalty if an application is not filed during the regular registration period (ORC 955.012). Unlike other dogs, law enforcement dogs may only be registered for one-year. Three-year or permanent registrations are not authorized for dogs regularly used for law enforcement purposes. In situations where a law enforcement canine is retired and given to the handler, then a new registration must be obtained because the dog no longer meets the definition of a law enforcement canine (ORC 955.012).

4. Those dogs in the county animal shelter sold to an Ohio non-profit institution or organization engaged in teaching or research concerning the prevention and treatment of diseases of humans or animals, and are certified by the Director of the Ohio Department of Health, are exempt from registration when released from the animal shelter if the dog is used for teaching or research purposes. A fee of \$3.00 must be paid to the county by the institution or organization (ORC 955.16(B)).

127.075 DESIGNATION OF REGISTRATION AGENTS BY COUNTY AUDITOR

The county auditor may authorize agents to receive applications and issue certificates of registration and dog tags. The auditor must establish rules for reporting and accounting by authorized agents. If the county auditor authorizes agents to accept applications and register dogs and kennels, the agents may charge a 75¢ administrative fee. In addition, the auditor may also deputize dog wardens and deputies to issue dog and kennel registrations. The county auditor does have the authority to charge a fee for registration on the internet or if the auditor or dog warden accepts payment by credit card or other financial transaction devices (ORC 955.14(E)).

124.076 REGISTRATION OF DOGS AND KENNELS ON THE INTERNET

In addition to obtaining a dog or kennel registration by filing an application with the county auditor or the auditors' agent, the county auditor may register dogs on the internet. Dog registration fees may be paid by credit card or other authorized financial transaction device authorized by ORC Section 301.28. The county auditor establishes the procedures for the internet registration and for the payment of registration fees (ORC Sections 955.013, 955.14(F)).

If the county accepts payment of dog and kennel registration fees by credit card or other financial transaction device, an administrative fee is collected on each transaction in one of the following ways:

1. An administrative fee of 75¢ or another amount necessary to cover actual costs determined by the county auditor.

2. If county commissioners adopt a surcharge or convenience fee for making payments by a credit card or other financial transaction that surcharge or convenience fee.
3. If the county auditor contracts for internet registration, a surcharge or convenience fee as agreed to between the contractor and the auditor for internet registration services. Any additional expenses incurred by the county auditor that result from a contract that are not covered by a surcharge or convenience fee is paid out of the dog and kennel fund under ORC Section 955.20. See Section 127.06 for additional information.

In addition, the county auditor must conspicuously post on the web site the amount of the administrative fee, surcharge, or convenience fee to be charged in addition to the registration fee. If any person chooses to pay by credit card or other financial transaction device, the administrative fee, surcharge, or convenience fee is voluntary and is not refundable.

127.08 ISSUANCE OF CERTIFICATE OF REGISTRATION AND DOG TAGS

After the application is approved and the registration fee along with any administrative fee is paid, the auditor or auditor's agent delivers a certificate of registration with a distinct number (ORC 955.07) and a metal tag to the owner (ORC 955.08). The form, color, character, and lettering of the tag is determined by the county auditor. The former law provided that metal tags had to be a different color each year, but this is no longer required (ORC 955.08). In the case of a dangerous dog registration certificate, the tag must identify the dog as a dangerous dog.

Upon issuance, the owner is required to assure that the dog tag is worn at all times by the dog. In the event the tag is not worn, the dog is subject to impounding, sale, or destruction as if the dog was not registered. Failure to wear a tag is a minor misdemeanor (ORC 955.10). Tags need not be worn by dogs constantly confined to registered kennels or by high volume breeders licensed under ORC Chapter 956 (ORC 955.10).

The certificates of registration and applications of both dogs and kennels must be maintained by the auditor in the dog and kennel register. They must be maintained until after an audit is performed by the State Auditor (ORC 955.07).

127.09 DOG AND KENNEL REGISTRATION FEES

Under Ohio law, statutory registration fees are established and county commissioners are given authority to increase or modify the fees. Various provisions of law allow for the increase or modification of dog and kennel fees. Following is a summary of the most important provisions:

1. The standard statutory dog registration fee is \$2 per year for one and three-year registrations and \$20 for a permanent registration. These are statutory minimums. This statutory minimum, or base, may be increased by county commissioners pursuant to ORC Section 955.14 (ORC 955.01). Whenever the legislature changes the dog registration laws, county commissioners must update their registration resolution to reflect any changes in the law and any resolution resulting from such changes should be shared with the county auditor's office.
2. The standard statutory kennel registration fee is \$10. This statutory minimum, or base, also may be increased by county commissioners pursuant to ORC Section 955.14. (ORC 955.04).
3. County commissioners may, by resolution, increase the statutory registration fees to an amount the commissioners estimate is needed to pay all expenses to administer the dog laws and to pay animal claims. When increasing the fees, the ratio of \$2 per year for dog registrations, \$20 for permanent registrations, and \$10 for kennel registrations must be maintained. This essentially means that permanent registrations must be ten times the one-year dog registration fee in effect in the county and kennel registration fees must be five times the one-year dog registration fee.

The resolution increasing the fees cannot be adopted before February 1 or later than August 31 of any year. The resolution must state the registration period or periods to which the increased fees apply (ORC 955.14(A)).

4. The registration fee for a dangerous dog is \$50 per year, and annual registration of such dogs is required. Registration fees for dangerous dogs may not be increased by county commissioners.

In addition, under ORC Chapter 956, dealing with the licensure of high volume breeders who must be licensed by the Ohio Department of Agriculture, the Director is required to pay to the county either \$50 or the amount of the kennel registration fee established by the county commissioners, if larger, as a reimbursement for lost kennel registration fees. This reimbursement is deposited into the dog and kennel fund.

127.091 ESTABLISHMENT OF HIGHER FEES FOR DOGS THAT ARE NOT SPAYED OR NEUTERED (ORC 955.01 (A) (2))

County commissioners also may establish a higher registration fee for dogs over nine months old that have not been spayed or neutered, except in the following cases:

1. A licensed veterinarian provides a certificate verifying that the dog should not be spayed or neutered because of age or medical condition.
2. A licensed veterinarian produces a certificate verifying that the dog is used or intended for show or breeding purposes.

3. A certificate from the owner declares that the dog is used or is intended to be used for hunting purposes and that the owner has a valid hunting license.

If such a differential license fee is established, the owner of dogs that have been spayed or neutered may be required to submit a certificate from a licensed veterinarian attesting to this fact before they are eligible for the lower registration fee.

127.092 PAYMENT OF A PORTION OF FEES TO OSU COLLEGE OF VETERINARY MEDICINE

If commissioners have increased registration fees beyond the statutory minimum, the OSU College of Veterinary Medicine is entitled to a portion of the registration fees. The amount is equal to 10¢ for each one-year registration, 30¢ for each three-year registration, \$1 for each permanent registration, and 10¢ for each kennel registration which was received during the previous year. The county auditor makes payment to the College not later than March 1 of each year for registrations received during the previous year from the dog and kennel fund.

The College uses the money for research and the study of the diseases of dogs, with an emphasis on diseases transmittable to humans. Funds also are used for research of other diseases of dogs which provides results related to the prevention and treatment of both human and canine illness. The College must, by May 1 of each year, file a progress report with the General Assembly on how the funds were used and the value of the research projects.

127.10 OTHER FEES

In addition to the registration fees specified in preceding sections, the following fees are provided for by law:

1. If tags are lost a duplicate is issued for \$5.00 (ORC 955.08).
2. Registered kennels may receive additional tags for \$1 each in excess of the five they receive with a kennel registration.
3. A \$5.00 fee to the county auditor to record a transfer of ownership certificate (ORC 955.11(B)).

In addition to the above fees, Ohio law establishes the following statutory minimum, or base fees, for dogs that are seized or impounded:

1. For filing an affidavit and issuing an order to seize a dog - \$1.
2. For seizing a dog and delivering it to the dog pound - \$4.

3. For serving or posting a notice to an owner - \$2.
4. For housing and feeding - \$1.50 per day.
5. For selling or destroying a dog - \$2.

If the commissioners want to increase these base fees, they may do so after conducting a cost-analysis study to determine the actual costs of providing services. In order to initiate such a study, the commissioners adopt a resolution authorizing the study. The study can be performed by county staff, or the county may contract for the study. The resolution must specify the scope of the study and of each cost area to be analyzed in the study. Eligible costs to be analyzed in the study include the direct costs incurred by the county for performing required services and any reasonable indirect costs incurred by other county offices to assist the dog warden to perform the services.

When the study is completed, the commissioners must hold a public hearing at a regular or special session of the board. Reasonable notice of the date, time and location of the hearing must be published in a newspaper of general circulation.

After the hearing the commissioners may, by resolution, establish fees to replace the statutory base fees. The increased fees may exceed the base fees by amounts that are adequate to cover the direct cost of providing the service, the cost of performing the cost-analysis study, and any indirect costs incurred by other county agencies in assisting the dog warden.

Commissioners are not obligated to adopt the fees recommended in the cost-analysis study. The board may adopt fees equal to or lower than the fees recommended in the study. Fees higher than those included in the study are prohibited, and fees may not be increased more than once a year. All fee increases must go into effect at the beginning of a calendar year.

Finally, commissioners, without conducting a cost-analysis study, may establish reasonable fees to cover the cost of providing miscellaneous services performed by the dog warden that are not otherwise expressly authorized in Ohio law. These miscellaneous services include, but are not limited to, disposing of dog carcasses, releasing dogs that are accidentally caught or found to be in a state of distress, and preventing dogs from engaging in fights or other objectionable behavior.

These fees are a valid claim by the county against the owner of a dog seized and impounded by the county when the dog is not otherwise redeemed or sold. Fees for miscellaneous services also are a valid claim against the owner and are subject to recovery in a civil action by the county.

127.11 TRANSFER OF OWNERSHIP OF DOGS

When a dog is sold or ownership is otherwise transferred, the seller is required to

provide to the buyer a signed transfer of ownership certificate (955.11(B)). The certificate must contain the registration number of the dog, the name and signature of the seller, and a brief description of the dog. The transfer of ownership form may be obtained at the county auditor's office. If the former owner submits a signed copy of the certificate along with a fee of \$5, then the auditor will record the certificate (ORC 955.11(B)).

In addition, the seller must give written notice to the buyer on the "behavior and propensities" of the dog before transfer of ownership or possession of the dog occurs if the buyer makes such a request to the seller (ORC 955.11(C)).

The law also requires a seller to give a written form to certain parties if the seller "has knowledge" that the dog is a dangerous dog (ORC 955.11(D)). The form must be provided to the seller by the dog warden of the county where the seller lives at no cost. A dangerous dog is defined in ORC 955.11(A). This notice must be given within 10 days after transfer of ownership occurs and must be given to:

1. The buyer or other transferee.
2. The health district where the buyer lives.
3. The dog warden of the county where the buyer lives.

The notice includes a form that must be completed by the seller which includes the following information:

1. The name and address of the buyer of the dog.
2. The age, sex, color, breed, and current registration number of the dog.
3. Answers to the following questions that are included on the form:
 - a. "Has the dog ever chased or attempted to attack or bite a person? If yes, describe the incident(s) in which the behavior occurred."
 - b. "Has the dog ever bitten a person? If yes, describe the incident(s) in which the behavior occurred."
 - c. "Has the dog ever seriously injured or killed a person? If yes, describe the incident(s) in which the behavior occurred."

127.12 IMPOUNDING AND DISPOSITION OF DOGS

A dog warden may pick up and impound dogs for a variety of reasons. Pursuant to ORC Section 955.16, if a dog is seized and impounded, it must be housed and fed for specified redemption periods during which the owner may redeem the impounded dog.

The owner must pay all costs assessed against the dog, and if it is not registered must purchase a registration upon redemption. If the dog is not claimed during the redemption period, the dog may be sold, released, or humanely destroyed. Following is a summary of various redemption periods:

1. If the dog is not registered, it must be kept for three days. Upon impoundment, a notice must be posted at the animal shelter describing the dog and the location where it was seized. The posted notice must advise the unknown owner that unless the dog is redeemed within three days that it may be sold or destroyed.
2. If the dog is registered and unsuccessful attempts have been made to notify the owner, the dog must be kept for 14 days. Upon impounding a registered dog the dog warden must give immediate notice by certified mail to the owner stating that the dog has been impounded, and unless the dog is redeemed within 14 days of the date of the notice, that the dog may be sold or destroyed.
3. If the dog is registered and the owner has been contacted and requests that the dog remain in the animal shelter until redeemed by the owner, the dog must be kept for 14 days plus an additional 48 hours before the dog may be sold or destroyed.

After the end of any of these redemption periods, the dog may be sold or disposed of as follows:

1. It must first be donated to a non-profit agency that trains "assistance dogs" for blind or hearing impaired persons or persons with mobility impairments if the agency has requested such donations. Dogs donated to such agencies do not have to be registered when they are released from the animal shelter.
2. If such a non-profit agency does not redeem the dog, it may be sold to any person after the animal is registered to the new owner.
3. It also may be sold to any non-profit Ohio institution or organization that is certified by the Director of the Ohio Department of Health as being engaged in teaching or research relating to the prevention or treatment of diseases of animals or humans. In this case the dog does not have to be registered, but a \$3 fee must be paid. In most cases, these research organizations are primarily interested in dead dogs which can be given to them at no cost.

Registered dogs given to the dog warden by an owner may specify in writing that the dog may not be offered to a teaching or research institution or organization.

Any such organization obtaining dogs shall, at all reasonable times, make the dogs available for inspection by agents of the Ohio Humane Society or any county Humane Society. They must keep a record of all dogs received and the source of supply for a period of three-years. The sale or release to U.S.

Department of Agriculture (USDA) licensed animal dealers is not allowed under Ohio law.

It should be stressed that the county dog warden has discretion on whether to offer dogs to teaching and research institutions. There is no legal right for such teaching and research institutions to obtain dogs if the county determines it does not want dogs released for this purpose (OAG 90-031).

4. Dogs may then be humanely destroyed after the appropriate redemption period, provided that if a teaching and research institution has requested dogs and the county allows dogs to be released to such institutions, 24 hour notice must be given to such an institution prior to humane destruction (ORC 955.16 (C)).

Finally, after a dog is seized and impounded it can become subject to immediate humane destruction because of obvious disease or injury. If such a dog is registered, the necessity must be certified by a veterinarian or a veterinary technician. If the dog is not registered, the decision to destroy is made by the dog warden.

127.121 ENFORCEMENT OF LAWS PROTECTING COMPANION ANIMALS

HB 71, effective in September 2008, established that the county dog warden is not one of the authorized enforcement "officers" of ORC Chapter 959, which establishes procedures governing the handling of cases involving the inhumane treatment of companion animals including dogs. Authorized enforcement officers for purposes of enforcing Chapter 959 include humane agents, municipal or township animal control officers and peace officers. Some humane societies appoint a dog warden to also serve as a humane agent. With the exception of dog wardens who have been appointed as humane agents, Chapter 959 does not fall within the responsibilities of dog wardens.

127.122 RELEASE OF DOGS TO ANIMAL RESCUE GROUPS

Dogs may be released to an "animal rescue for dogs" as that term is defined in ORC Section 956.01 generally under the same terms and conditions that dogs are released to anyone who wants to adopt a dog from the animal shelter. ORC Section 956.01 defines "animal rescue for dogs" to mean:

. . . an individual or organization recognized by the director of agriculture that keeps, houses, and maintains dogs and that is dedicated to the welfare, health, safety, and protection of dogs, provided that the individual or organization does not operate for profit, does not sell dogs for a profit, does not breed dogs, and does not purchase more than nine dogs in any given calendar year unless the dogs are purchased from a dog warden appointed under Chapter 955. of the Revised Code, a humane society, or another animal rescue for dogs. "Animal rescue for dogs" includes an individual or organization that offers spayed or neutered dogs for adoption and charges reasonable adoption fees to cover the costs of the individual or organization, including, but not limited to, costs related to spaying or neutering dogs.

In addition, in some counties additional requirements often apply before dogs may be released to an animal rescue individual or organization. These requirements are often locally established. An animal rescue for dogs which maintains an animal shelter appears to be exempt from paying registration fees pursuant to ORC Section 955.01(C), however, an individual who is defined as an animal rescue for dogs is not exempt from paying registration fees. Some of the additional requirements that may apply include:

1. The organization must be incorporated as a non-profit with the Secretary of State.
2. The organization must have a private letter ruling from the IRS that is a IRC Section 501(c)(3) organization.
3. The organization must be registered with the Ohio Attorney General's Charitable Registration section if they are soliciting funds for the organization and must file an annual report (Ohio Charitable Trust Act ORC 109.23 - .33, Ohio Charitable Organizations (Solicitation) Act ORC Chapter 1716).
4. The organization is not on the Auditor of State's findings for recovery database required by ORC Section 9.24.

127.13 THE HUMANE DESTRUCTION OF DOGS

ORC Section 955.16(F) provides that: "No person shall destroy any dog by use of a high altitude decompression chamber, or by any method other than a method that immediately and painlessly renders the dog initially unconscious and subsequently dead."

The statute thus specifically prohibits the use of a high altitude decompression chamber by counties. Since no other specific methods are prohibited under the law, acceptable methods must meet the statutory standard that "immediately and painlessly renders the dog initially unconscious and subsequently dead." These terms in the law have been subject to litigation and these cases are instructive in interpreting these terms.

A 1998 case originating in Columbiana County considered the county use of a carbon monoxide (CO) chamber. In this case the plaintiffs contended that the use of CO did not meet the statutory requirements. The plaintiffs wanted the county to change its method of euthanasia to lethal injection using sodium pentobarbital. In this case the Common Pleas Court and the Seventh District Court of Appeals found that, while injections in the form of sodium pentobarbital generally resulted in the dog experiencing unconsciousness more quickly, there was credible evidence that injections involved longer and more stressful preparation time for the dog.

The Court of Appeals also relied on the fact that the statute only specifically banned high altitude decompression chambers, and "moreover, had the legislature intended a specific method of euthanizing dogs, it could have stated that intent with specificity." In

addition, in affirming the lower court's ruling, the Court of Appeals found “. . . that the trial court's interpretation of R. C. 955.16(F) and its conclusion that the carbon monoxide method to euthanize dogs in Columbiana County does not violate the “immediately” provision of that section of the Ohio Revised Code since the court's actions are supported by some credible evidence and are consistent with appropriate statutory interpretation.”

In 2002 a mandamus action was filed in the Fourth District Court of Appeals involving various dog law issues in Jackson County. One issue considered was whether the use of a firearm on dogs was “humane” method of euthanasia. Jackson County used a licensed veterinarian to euthanize dogs once a week, however, at issue was the use of a gun by the dog warden to destroy dogs at other times.

Interestingly, in this case, the Court did not specifically refer to ORC Section 955.16(F) in making its ruling. The Court did not read the statute to require the “most humane” method of euthanasia, but only “a humane one.” Further, the Court stated that: “According to the individual facts and circumstances, immediately destroying a diseased or injured dog with a gun may be humane, in other instances it would not. Because it is impossible to conceive of all the situations faced by the dog warden, we will not attempt to do so. However, we conclude that the routine shooting of dogs as the standard method of destruction in a county dog pound or by a county dog warden is not humane.” Finally, the Court advised that “absent some unusual or exigent circumstance, including but not limited to dog menacing, R. C. 955.28, or severely diseased or injured dogs, R. C. 955.16(A)(1), we issue a writ of mandamus compelling the respondents (county) to use medication/sedation as the routine means of destruction.”

Currently the most widely used method of euthanasia for dogs in Ohio is by lethal injection. The Ohio County Dog Wardens Association (OCDWA), a CCAO affiliate organization, recommends that counties “transition to this method as soon as possible taking into consideration factors such as human and animal safety, availability of trained staff, cost effectiveness, drug acquisition and storage, drug liability and legal considerations, availability of veterinarians within each county, availability of additional resources and assistance, etc. OCDWA supports the right of each Ohio county dog warden to decide which method of euthanasia to utilize providing the method utilized complies with the American Veterinary Medical Association Guidelines and the Ohio Revised Code.”

Finally, it should be noted that ORC Sections 4729.531 address provisions related to obtaining a limited license from the State Board of Pharmacy for animal shelters in counties that use lethal injection methods. In addition, to obtain a limited license the dog warden, deputy dog warden, or a registered veterinary technician must successfully complete a euthanasia technician certification course as set forth in ORC Section 4729.532. The curriculum for the course must be approved by the State Veterinary Licensing Board.

127.14 ANIMAL CLAIMS PROCEDURE

Any owner of horses, sheep, cattle, goats, swine, mules, domestic rabbits or domestic fowl or poultry that have a fair replacement value of at least \$10 may receive compensation from the dog and kennel fund. In order to be eligible for compensation, the animal must be injured or killed on the owner's property and by a dog other than a dog owned by or harbored on the premises of the owner. Payments are to be made to eligible claimants by the county auditor five days after a claim is approved by the commissioners. Following are the steps that must be adhered to in order to be eligible for payment.

1. The owner must notify the dog warden or a county commissioner within three days after discovering the loss or injury.
2. If a commissioner is first notified, the commissioner immediately notifies the dog warden.
3. The dog warden investigates the claim, provides the owner with a claim form, and assists the owner in completing the form. The claimant must include on the claim form information on the kind and grade of the animal; quality and estimated fair market value; the nature and amount of loss or injury; and, the place where the incident occurred. The claimant also should include any other facts that can assist the dog warden in determining responsibility for the loss.

A claimant who is the owner of registered stock that is killed or injured must also submit registration papers with the claim form. The papers should show the breeding line of the animal, age, and other matters. If the animal is not registered, but is the offspring of registered stock and is eligible for registration, the papers showing the breeding of the offspring must be submitted.

The claimant also must sign the form and certify that the information on the form is a true account of the loss and that the claimant did not own an unregistered dog on the day of the loss. Inaccuracy on the form is subject to criminal penalties for falsification. If the claimant owned an unregistered dog, the claim cannot be approved. The form also includes a space where the claimant must indicate if there was insurance against the loss. If the claimant was insured, a copy of the insurance policy must be attached to the claim form (ORC 955.36).

4. The dog warden reviews the completed claim form and if the warden finds that all statements made on the claim form are correct and agrees with the claimant on the fair market value, the warden certifies this fact and transmits the form along with accompanying materials to the commissioners.
5. If the dog warden does not find all statements on the claim form to be correct or if he does not agree with the claimant on the fair market value, the claimant may then appeal to the commissioners.

6. A claimant who appeals to the commissioners then has 10 days after the determination by the dog warden to submit two copies of the claim form and statements from at least two witnesses who saw the results of the killing or injury. The statement of the witnesses should include statements concerning the nature and amount of the injury or loss. These witnesses must be able to testify. The dog warden also must submit to the commissioners all documents relating to the case.
7. The commissioners consider claims agreed to by the dog warden at the next regular meeting after they have been submitted. In the case of a claim that was not agreed to by the dog warden and is being appealed by the claimant, the appeal is heard at the next regular session of the board after the appeal is filed, remembering that the claimant has 10 days to submit a claim form and witness statements.

At either proceeding commissioners may hear additional testimony. Witnesses, which may not exceed four, are entitled to be paid \$6 and mileage at the rate of 10¢ per mile. Commissioners, when determining payment of the fair market value are not bound by the amount specified in the claim form and may allow any payment they feel is just, but the amount allowed may not exceed the lesser of \$500 per animal or the uninsured amount of the loss or injury.

In the case of registered stock or stock that is eligible for registration, the payment may be for 125% of the fair market value, but not more than \$500. A fetus aborted as a result of stress during a dog attack is considered an animal killed. In this case the dog warden may request the Ohio Department of Agriculture to have the state veterinarian certify the cause of death (ORC 955.35).

8. The claimant then has 30 days to appeal the payment allowed by appealing to the probate court.
9. The court will then make a determination of the fair market value, provided the court may not exceed the lesser of \$500 per animal or the uninsured amount of the loss or injury (ORC 955.38). Both the county and the claimant may call no more than three witnesses. If the court allows more than the final allowance by the commissioners, court costs are shared equally by the claimant and county. If no increase is allowed by the court, the claimant must pay all court costs.

Finally, if the owner of the dog that caused the loss or injury is identified, the county prosecutor may bring a civil action to recover what was paid from the dog and kennel or general fund.

127.141 FAIR MARKET VALUE

In 1981, HB 760 changed the reference to the value of killed or injured animals from

"fair replacement value" to "fair market value." The intent of this change was to reduce the amount that had to be paid for expensive animal claims that far exceeded slaughter value.

Fair market value is now defined in law as "the average price that is paid for a healthy grade animal at a livestock auction" licensed by the Department of Agriculture and selected by the commissioners. Large claims against dog and kennel funds still occur in some counties, but they generally do not appear to be the problem they were in the past. The enactment of HB 454 in 1985 solved much of the previous problem by placing a maximum claim payment of \$500 per animal.

127.142 INSURANCE COVERAGE BY OWNERS AND INSURANCE SUBROGATION

Most modern farm insurance policies contain coverage for the damage to livestock resulting from dogs. It would thus appear that some claims for killed or injured livestock might be receiving duplicate payments. Ohio law is silent on the subject so it would appear that county commissioners and dog wardens are helpless in any attempt to recover any payment made to owners. Likewise, however, there is no authority for insurance companies to subrogate against the dog and kennel fund.

127.143 PAYMENT OF CERTAIN ANIMAL CLAIMS FROM GENERAL FUND; REPAYMENT DURING THE NEXT YEAR

Not later than October 15 of each year county commissioners must determine if there is enough money in the dog and kennel fund to pay for animal claims during the remainder of the year. In order to make this determination, the commissioners must determine the amount of funds that have been used or are estimated to be needed for administrative expenses. If the commissioners determine there will be inadequate money in the fund to pay animal claims, then the outstanding claims must be paid from the general fund. During the next year the commissioners may replace the money that was used to pay the claims from the general fund from the dog and kennel fund (ORC 955.14(B)). For additional information regarding the payment of animal claims, see Section 127.06 of this *Handbook*.

127.144 ANIMAL CLAIMS FOR ANIMALS KILLED BY COYOTES AND BLACK VULTURES

In some parts of Ohio coyotes have become a problem for livestock farmers. Dog wardens have determined, in some instances, when they have been called upon to investigate animal claims, that the kill or injury was caused by coyotes rather than dogs. In 1987 the General Assembly adopted legislation (HB 848) which provides a method for reimbursing owners of livestock killed or injured by coyotes and black vultures. While the statutes for payment of livestock owners for losses by coyotes and black vultures by the state are still in the law, since 2010 no payments have been made because the General Assembly has not appropriated money for this purpose.

County commissioners are not involved in the investigation or payment of these claims, except that the dog warden must make the determination of the cause of damage. Owners of horses, sheep, cattle, swine, mules, goats, domestic rabbits, or domestic fowl or poultry having an aggregate fair market value of \$25 or more are eligible for reimbursement if those animals are killed or injured by coyotes or black vultures should the General Assembly resume funding for this purpose. Following is the procedure for reimbursement:

1. The owner of the livestock must notify the dog warden within three days of the discovery of the loss. The owner also must take photos of the wounds sustained by the animal.
2. The dog warden must investigate and determine if the loss was caused by a coyote or black vulture. If the dog warden determines that the loss was not caused by one of these predators, no claim to the state may be made.
3. If the dog warden determines that the loss was caused by a coyote or black vulture, the warden notifies the wildlife officer, who also investigates the loss and affirms, disaffirms, or states uncertainty about the finding of the warden.
4. If the wildlife officer affirms or is uncertain about the finding of the dog warden, the dog warden provides the owner with a claim form and assists in completing the form. If the wildlife officer disaffirms the finding of the dog warden, the owner may not make a claim to the state.
5. If the finding of the dog warden is affirmed by the wildlife officer, or if the officer is uncertain of the finding by the dog warden, then the owner may file a claim with the Department of Agriculture. The owner must submit the form to the state within 30 days after discovery of the animal along with the photos taken by the owner and any other pertinent information. In addition, if the stock is registered the registration forms should be included with the claim form.
6. The dog warden and the wildlife officer then must submit the information each used in making their determinations to the Department of Agriculture.
7. After reviewing the forms, information from the dog warden and wildlife officer, and any other pertinent information, the Department of Agriculture makes a determination on the fair market value.
8. The Department of Agriculture hears claims in the order of their filing, and may allow claims in full or in part, or may disallow them. The Department makes the final determination, however, the owner may appeal pursuant to ORC Chapter 119. The statute also provides that if there are not adequate funds appropriated for this purpose, then the claim will not be paid and cannot be resubmitted. The entire application of the statute is thus dependent on appropriations by the General Assembly

See ORC Sections 955.51 - 955.53 for details concerning livestock kills or injuries from coyotes and black vultures.

127.15 DANGEROUS, VICIOUS AND NUISANCE DOGS

On May 22, 2012, Ohio's new dangerous and vicious dog law became effective. This Act changed a 25-year-old law that statutorily defined pit bulls as vicious dogs. The issue of whether pit bulls should be designated vicious dogs under state law had been an issue of considerable controversy in the General Assembly for nearly a decade.

In addition, the old vicious dog law had been under attack for a number of years in the courts because of certain due process procedural defects. Essentially the courts had ruled that since the dog warden acted alone as an arbiter of fact as to whether the dog had committed certain offenses of law with no appeal process, that this portion of the law was unconstitutional on due process grounds (*State v. Cowan*, 814 N.E. 2nd 846).

The legislation, as enacted, eliminated the breed specific language in Ohio law which made pit bulls vicious dogs as a matter of state law. In addition, because the new penalties were now specific to the behavior of a dog, the definitions of vicious dogs and dangerous dogs were changed, and a new definition of a nuisance dog was included in the statute (ORC 955.11(A)).

The law also enacted a series of maintenance and public safety requirements on dangerous and vicious dogs, but not on nuisance dogs. The law provides that if a person who is authorized to enforce Chapter 955, which includes the county dog warden and peace officers, but not humane agents, has reasonable cause to believe that a dog is a nuisance, dangerous, or vicious dog that the person may so designate the dog. If the dog warden designates a dog in this way, notice must be sent to the owner by certified mail or in person. This notice must include the following:

1. That the dog has been designated as a nuisance, dangerous, or vicious dog.
2. That the owner may request a hearing regarding the designation. The notice must include instructions for requesting a hearing in the county of residence of the owner.

If the owner disagrees with the designation of the dog, an appeal can be filed no later than 10 days after receipt of the designation. The request for a hearing is filed in the county or municipal court where the owner resides.

If the owner appeals the designation, the owner must maintain the dog as a dangerous dog while awaiting the hearing, but will not be required to comply with certain other requirements of the law such as liability insurance and dangerous dog registration until all appeals are exhausted.

At the hearing the dog warden, or other person who designated the dog, has the burden of proof and must prove the designation by clear and convincing evidence. This hearing is a civil proceeding and the dog warden may be represented by the county prosecutor at the hearing. The owner or the dog warden, or other person who designated the dog, may appeal this decision to a higher court.

The law also requires the owner of a dog, if confined in the county animal shelter before the court determines if the owner has violated a maintenance requirement specified in state law for a dangerous or vicious dog, must provide a security deposit of \$100 to the dog warden. The purpose of the deposit is to secure payment of all reasonable expenses incurred by the county while keeping a dog during the appeal period. The law also specifies that failure to provide this security deposit will result in forfeiture of the dog.

If the dog is confined in the county shelter, the dog warden must give written notice to the owner of the confinement, or if the warden is not able to provide written notice, then a notice must be posted on the door of the home of the owner. The notice also must inform the owner that the security deposit must be posted within 10 days to provide for the care of the dog for up to 60 days.

At the end of the confinement period of a dog held in a county animal shelter awaiting appeal, the dog warden provides the owner with the actual cost of the confinement of the dog. If the actual cost is more than \$100, the owner must pay the difference to the dog warden, and if the actual cost is less than \$100, the dog warden must refund the difference to the owner.

As an alternative to keeping the dog in the county animal shelter, a court, upon motion of an owner, may order the dog be held in the possession of the owner until the court makes a final determination or during any subsequent appeal.

Finally, the law requires notice to the county dog warden if a dog has been designated as dangerous and for certain other dogs that have been found to violate state law but have not yet been designated as dangerous. Following is a list of the incidents that trigger the required notice to the dog warden:

1. The dog is loose or unconfined.
2. The dog bites a person, unless the dog is on the property of the owner of the dog, and the person who is bitten is unlawfully trespassing or committing a criminal act on that property.
3. The dog attacks another animal while the dog is off the property of the owner of the dog.

Also, if a dangerous dog is sold, given to another person, or dies, the owner must notify the county auditor within 10 days of the sale, transfer or death.

The law also declared that an owner of a dog who was required to comply with the requirements pertaining to a vicious dog prior to the effective date of the bill are still required to comply with requirements under the new law pertaining to a dangerous dog, unless the dog had been deemed a vicious dog solely on the basis that the dog was a pit bull.

This is a very short summary of a very complex law. For additional information refer to ORC Sections 955.11(A), 955.22, 955.222, and 955.99. For additional information on the Dangerous and Vicious Dog Law, refer to County Advisory Bulletin 2012-09.

127.16 IMPOUNDING OF RABID DOGS

County dog wardens may be required to impound in the shelter, or another suitable place, a dog which has bitten a person, for a period of 10 days to determine if the dog has rabies. In practice most dogs that bite someone are actually quarantined at the owner's home. If the dog is quarantined in the county shelter, however, the board of health must reimburse the county costs incurred in the quarantining of the animal (ORC 955.26).

The Attorney General has ruled that when a dog warden seizes a stray dog that the health district must pay the costs associated with the quarantine if the county has to keep the dog for more than three days (OAG 90-035). Where the owner of the dog is known, the warden may assess the cost of keeping the dog to the owner. If such costs are not paid within 30 days, the cost shall be recovered in a civil action. County commissioners must deposit any monies collected through a civil action in the dog and kennel fund.

127.17 MEDICAL AND SURGICAL PAYMENTS TO RABIES VICTIMS

Persons bitten or injured by rabid animals may receive money from the county general fund for medical or surgical treatment. The person must make an itemized claim within four months of the bite or injury at the regular meeting of the commissioners.

The person making the claim also must present documentation showing that the person is not able to further provide for the payment of the expenses incurred for the medical or surgical treatment without deprivation of basic needs (ORC 955.42).

The commissioners must examine the claim and make its decision not later than the third regular meeting after the claim was presented. The maximum amount of the payment is \$1,500 per case. Such payments also may be made to the person bitten, the person's representative, a physician, or the person's estate (ORC 955.41).

127.18 FUNDS FOR HUMANE SOCIETIES

County humane societies are organized under the provisions of ORC Section 1717.05. Agents appointed must be approved by the mayor of a municipal corporation or by the

probate judge if the society exists outside of a municipality. Following are some interesting financial obligations counties may have toward societies or agents:

1. If the probate judge approves the appointment of the humane society agent, the county must pay such amount to the agent as the board deems reasonable, but not less than \$25 per month. Only one such agent must receive such funds. The money is paid from the general fund (ORC 1717.07).
2. At the end of the year the county commissioners may appropriate funds from the general fund to a county humane society if they desire (ORC 1717.15).
3. A humane society that employs an attorney to prosecute violations of law relating to animal cruelty must be paid an amount the commissioners determine is just and reasonable from the county treasury. (ORC 2931.18).
4. During December, if more than \$2,000 remains in the dog and kennel fund, after paying other necessary expenses, any portion of the excess over \$2,000 that the commissioners deem necessary may be paid to the treasurer of the humane society (ORC 955.27). This may only be paid if a county humane society with appointed humane agents or any other society organized under ORC Chapter 1717 exists, owns, or controls a dog kennel or place for keeping and destroying dogs, and employs humane agents.
5. If the humane society has an animal shelter with devices for humanely destroying dogs, and the county chooses not to have its own facilities, the commissioners shall provide reasonable compensation for such services from the dog and kennel fund (ORC 955.15).

Exhibit 127-1b

Ohio County Dog Registration Regulations for 1 Yr., 3 Yr. or Permanent Tag

I. Registration Period of Validity Determined by Registrant Paying Respective Example Fees

- A. **One-year Tag Cost** if Acquired **by Filing Deadline** – Based on Age after July 1
 - i. Prior to July 1 – \$12.00 (Established by Board of County Commissioners resolution)
 - ii. 3 Mo. of Age after July 1 – \$6.00 (50% of full fee)

- B. **Three-year Tag Cost** if Acquired **by Filing Deadline**
 - i. Eff. 9/15/14 - Prior to July 1 – \$36.00 (3 times cost of 1 yr. tag)
 - ii. Eff. 12/1/14 - After July 1 – \$29.88 (83% of full fee)

- C. **Permanent Tag Cost** if Acquired **by Filing Deadline**
 - i. Eff. 9/15/14 - Prior to July 1 – \$120.00 (10 times cost of 1 yr. tag)
 - ii. Eff. 12/1/14 - After July 1 – \$120.00 (100% of full fee)

II. Registration Filing Deadline Determined by Ohio Period of Ownership

- A. **Prior** to July 1
 - i. Acquired **within** 30 Days – No penalty assessed
 - ii. Acquired **beyond** 30 Days – Penalty assessed

- B. **After** July 1
 - i. Acquired **within** 90 Days – No penalty assessed
 - ii. Acquired **beyond** 90 Days – Penalty Assessed

- C. **Ohio Residency**
 - i. Brought into the state **within** 30 Days – No penalty assessed
 - ii. Brought into the state **beyond** 30 Days – Penalty Assessed

III. Registration Penalty Determined by Period of Year

- A. **Dec. 1 –Jan. 31***
 - i. No registration penalty can be assessed.

- B. ***Feb. 1 – Nov. 30**
 - i. Registration penalty shall be assessed an amount equal to the registration fee for one-year if dog acquired beyond 30 days ago.

* Board of County Commissioners may alter period when registration penalty goes into effect.

Table 127-1 (Registration of 3 Month Old Puppy and Out of State Dog with the County Auditor)

	DEC	JAN	FEB	MAR	APR	MAY	JUN	JUL	AUG	SEP	OCT	NOV	DEC	JAN	
	DEC 1 - JAN 31		FEB 1 - NOV 30										DEC 1 - JAN 31		
Puppy (A) becomes over 3 months old on Dec 1	1 year - \$12 3 year - \$36 Permanent - \$120		1 - \$12 + \$12 penalty = \$24 3 - \$36 + \$12 penalty = \$48 Permanent - \$120 + \$12 penalty = \$132										New 1 year - \$12 Not needed yet Not needed ever		
Out of State Dog (B) comes into the state on Dec 1	1 year - \$12 3 year - \$36 Permanent - \$120		1 - \$12 + \$12 penalty = \$24 3 - \$36 + \$12 penalty = \$48 Permanent - \$120 + \$12 penalty = \$132										New 1 year - \$12 Not needed yet Not needed ever		
			FEB 1 - MAR 2 (30 days)	MAR 3 - NOV 30										DEC 1 - JAN 31	
Puppy (AA) becomes over 3 months old on Feb 1			1 year - \$12 3 year - \$36 Perm - \$120	1 - \$12 + \$12 penalty = \$24 3 - \$36 + \$12 penalty = \$48 Permanent - \$120 + \$12 penalty = \$132										New 1 year - \$12 Not needed yet Not needed ever	
Out of State Dog (BB) comes into the state on Feb 1			1 year - \$12 3 year - \$36 Perm - \$120	1 - \$12 + \$12 penalty = \$24 3 - \$36 + \$12 penalty = \$48 Permanent - \$120 + \$12 penalty = \$132										New 1 year - \$12 Not needed yet Not needed ever	
								JUL 1 - SEP 28 (90 days)		SEP 29 - NOV 30		DEC 1 - JAN 31			
Puppy (AAA) becomes over 3 months old on Jul 1								1 year - \$12 x 1/2 = \$6 3 year - \$36 x 83% = \$29.88 Perm - \$120		1 year - \$6 + \$12 Penalty = \$18 3 year - \$29.88 + \$12 Pen = \$41.88 Permanent - \$120 + \$12 Pen = \$132		New 1 year - \$12 Not needed yet Not needed ever			
Out of State Dog (BBB) comes into the state on Jul 1								1 year - \$12 x 1/2 = \$6 3 year - \$36 x 83% = \$29.88 Perm - \$120		1 year - \$6 + \$12 Penalty = \$18 3 year - \$29.88 + \$12 Pen = \$41.88 Permanent - \$120 + \$12 Pen = \$132		New 1 year - \$12 Not needed yet Not needed ever			