

ORDINANCE NO. 2011-10-T&S

**AMENDING SECTION 505.02 OF THE VILLAGE OF GREENHILLS
CODIFIED ORDINANCES REGARDING
VICIOUS AND DANGEROUS DOGS**

WHEREAS, Section 505.02 of the Greenhills Codified Ordinances currently regulates vicious and dangerous dogs; and

WHEREAS, Council has determined that it is in the best interest of the Village of Greenhills to amend these regulations.

NOW, THEREFORE, BE IT ORDAINED by the Council of the Village of Greenhills, Ohio, six members elected thereto concurring:

SECTION 1.

That Section 505.02 of the Village of Greenhills Codified Ordinances shall be amended as follows:

Deletions ~~crossed-out~~, additions ALL CAPITALS

505.02 DANGEROUS AND VICIOUS DOGS.

(a) Definitions. As used in this section:

(1) “Dangerous dog” means a dog that, without provocation, and subject to subsection (a)(2)A. and B. hereof, has chased or approached in either a menacing fashion or an apparent attitude of attack, or has threatened or attempted to bite or otherwise endanger any person, while that dog is either off the premises of its owner, keeper or harbinger and not under the reasonable control of its owner, keeper or harbinger or some other responsible person, or not physically restrained or confined in a locked pen which has a top OR OTHER LOCKED ENCLOSURE WHICH HAS A TOP, OR locked fenced yard WITH A FENCE OF A SUFFICIENT HEIGHT TO PREVENT ESCAPE OF THE DOG. ADDITIONALLY ALL PRECAUTIONS SHALL BE TAKEN TO PREVENT THE DOG FROM BURROWING UNDER THE FENCE OR ESCAPING THROUGH THE FENCE ITSELF ~~or other locked enclosure which has a top.~~

(2) “Dangerous dog” does not include:

A. A police dog that has chased or approached in either a menacing fashion or an apparent attitude of attack, or has threatened or attempted to bite or otherwise endanger any person while the police dog is being used to assist one or more law enforcement officers in the performance of their official duties; or

B. A dog that has chased or approached in either a menacing fashion or an apparent attitude of attack, or has threatened or attempted to bite or otherwise endanger any person while that person was committing or attempting to commit a trespass or other criminal offense on the property of the owner, keeper or harbinger of the dog.

(3) “Menacing fashion” means that a dog would cause any person being chased or approached to reasonably believe that the dog will cause physical injury to that person.

(4) “Without provocation” means that a dog was not teased, tormented or abused by a person, or that the dog was not coming to the aid or the defense of a person who was not engaged in illegal or criminal activity and who was not using the dog as a means of carrying out such activity.

(5) “Vicious dog” means a dog that, without provocation and subject to subsection (a)(6)A. and B. hereof, meets any of the following:

A. Has killed or caused serious injury to any person; or

B. Has caused injury, other than killing or serious injury, to any person, or has killed another dog;

(6) “Vicious dog” does not include:

A. A police dog that has killed or caused serious injury to any person or that has caused injury, other than killing or serious injury, to any person while the police dog is being used to assist one or more law enforcement officers in the performance of their official duties; or

B. A dog that has killed or caused serious injury to any person while a person was committing or attempting to commit a trespass or other criminal offense on the property of the owner, keeper or harbinger of the dog.

(b) Dangerous or Vicious Dogs. No owner, keeper or harbinger of a dangerous dog shall fail to do ~~either~~ ANY of the following:

(1) While the dog is on the premises of the owner, keeper or harbinger, securely confine it at all times in a building, in a locked pen which has a top OR OTHER LOCKED ENCLOSURE WHICH HAS A TOP, OR locked fenced yard WITH A FENCE OF A SUFFICIENT HEIGHT TO PREVENT ESCAPE OF THE DOG. ADDITIONALLY ALL PRECAUTIONS SHALL BE TAKEN TO PREVENT THE DOG FROM BURROWING UNDER THE FENCE OR ESCAPING THROUGH THE FENCE ITSELF. ~~or other locked enclosure which has a top, except that a~~ A dangerous dog may, in the alternative, be tied with a leash or tether so that the dog is adequately restrained;

(2) While the dog is off the premises of the owner, keeper or harbinger, keep it on a chain-link leash or tether that is not more than six feet in length and additionally do at least one of the following:

A. Keep the dog in a locked pen which has a top, ~~locked fenced yard~~ or other locked enclosure which has a top; or

B. Have the leash or tether controlled by a person who is of suitable age and discretion or securely attach, tie or affix the leash or tether to the ground or stationary object or

fixture so that the dog is adequately restrained and station such a person in close enough proximity to the dog so as to prevent it from causing injury to any person; or

C. Muzzle the dog.

(3) OBTAIN LIABILITY INSURANCE WITH AN INSURER AUTHORIZED TO WRITE LIABILITY INSURANCE IN THIS STATE PROVIDING COVERAGE IN EACH OCCURRENCE, SUBJECT TO A LIMIT, EXCLUSIVE OF INTEREST AND COSTS, OF NOT LESS THAN ONE HUNDRED THOUSAND DOLLARS BECAUSE OF DAMAGE OR BODILY INJURY TO OR DEATH OF A PERSON CAUSED BY THE VICIOUS DOG. FAILURE TO PRODUCE PROOF OF THE REQUIRED LIABILITY INSURANCE AT THE REQUEST OF A PERSON WHO IS AUTHORIZED TO ENFORCE THIS CHAPTER SHALL BE PRIMA-FACIE EVIDENCE OF THE LACK OF THE INSURANCE.

(c) Dangerous Dog Violation. If a violation of subsection (b) hereof involves a dangerous dog, whoever violates that subsection is guilty of a misdemeanor of the fourth degree on a first offense and a misdemeanor of the third degree on each subsequent offense. Additionally, the court may order the offender to personally supervise the dangerous dog that he owns, keeps or harbors, to cause that dog to complete dog obedience training, or to do both. The court, in the alternative, may order the dangerous dog to be PERMANENTLY REMOVED FROM THE MUNICIPALITY OR humanely destroyed by a licensed veterinarian, the Dog Warden or the humane society. The court may also order the offender to pay the Municipality's costs of handling and confining the dog.

(d) VICIOUS DOGS. NO PERSON SHALL OWN, KEEP, OR HARBOR A VICIOUS DOG IN THE MUNICIPALITY. UPON FINAL DESIGNATION AS A VICIOUS DOG PURSUANT TO THIS SECTION, THE OWNER, KEEPER, OR HARBORER SHALL IMMEDIATELY AND PERMANENTLY REMOVE THE VICIOUS DOG FROM THE MUNICIPALITY.

(~~e~~) Vicious Dog Violation. If a violation of subsection (~~b~~d) hereof involves a vicious dog, whoever violates that subsection is guilty of one of the following:

(1) A misdemeanor of the first degree on a first offense.

~~(2) A misdemeanor of the first degree, if the dog cause injury other than killing or serious injury, to any one person.~~

~~(32) Additionally, the court may order the offender to personally supervise the dangerous dog that he owns, keep or harbors, to cause that dog to complete dog obedience training, or to do both. The court, in the alternative, may order the dangerous VICIOUS dog to be PERMANENTLY REMOVED FROM THE MUNICIPALITY OR humanely destroyed by a licensed veterinarian, the Dog Warden or the humane society. The court may also order the offender to pay the Municipality's costs of handling and confining the dog.~~

(~~e~~f) The Municipality shall have the authority to determine if a dog qualifies as a dangerous or vicious dog. The Municipality shall provide notice to the owner, keeper, or harbinger of the dog, by regular mail or in person, of both of the following:

(1) That the dog has been designated as a dangerous or vicious dog, as applicable; and

(2) That the owner, keeper, or harbinger of the dog may request a hearing regarding the designation of in accordance with this section. The notice shall include instructions for filing such a request for hearing.

(fg) (1) If the owner, keeper, or harbinger of the dog refutes its designation as a dangerous or vicious dog, as applicable, the owner, keeper, or harbinger, not later than ten days after receiving notification of the designation, may request a hearing regarding the determination. The request for hearing shall be in writing and shall be filed with a hearing officer who has been appointed in accordance with this section.

(2) If the request is filed with a hearing officer, the hearing officer, not later than five days after the filing of the request, shall set the date and time for a hearing on the request and shall notify the owner, keeper, or harbinger of the dog and the Municipality, by certified mail or in person. The date of the hearing shall be not more than thirty days after the request is filed with the hearing officer.

(3) At a hearing conducted by a hearing officer, the owner, keeper, or harbinger of the dog and the Municipality may bring witnesses and submit information to support or refute the dog's designation. After the hearing, the hearing officer shall make a final determination on whether the dog is a dangerous or vicious dog, as applicable. The hearing officer shall notify, by certified mail, the owner, keeper, or harbinger of the dog and the Municipality of the hearing officer's determination.

(4) Not later than thirty days after the hearing officer makes a final determination, the owner, keeper, or harbinger of the dog or the Municipality may appeal the hearing officer's determination to the Hamilton County Court of Common Pleas pursuant to Chapter 2506 of the Ohio Revised Code governing administrative appeals.

(gh) The Municipality shall appoint at least one hearing officer to conduct hearings in accordance with this section concerning the designation of a dog as a dangerous or vicious dog. In order to be eligible for appointment as a hearing officer, a person shall be experienced and knowledgeable concerning canine behavior. The Municipality shall not appoint a person as a hearing officer if the person is authorized to enforce this chapter, is employed by a person authorized to enforce this chapter, or is employed by a court. The Municipality shall have complete discretion concerning matters of compensation of any hearing officer that it appoints under this section.

(i) UNLESS RELIEVED FROM DISABILITY AS PROVIDED IN SECTION 2923.14 OF THE OHIO REVISED CODE, NO PERSON SHALL OWN, KEEP, OR HARBOR A DANGEROUS DOG OR A VICIOUS DOG IF ANY OF THE FOLLOWING APPLY:

(1) THE PERSON IS A FUGITIVE FROM JUSTICE.

(2) THE PERSON IS UNDER INDICTMENT FOR OR HAS BEEN CONVICTED OF ANY FELONY OFFENSE OF VIOLENCE OR HAS BEEN ADJUDICATED A

DELINQUENT CHILD FOR THE COMMISSION OF AN OFFENSE THAT, IF COMMITTED BY AN ADULT, WOULD HAVE BEEN A FELONY OFFENSE OF VIOLENCE.

(3) THE PERSON IS UNDER INDICTMENT FOR OR HAS BEEN CONVICTED OF ANY OFFENSE INVOLVING THE ILLEGAL POSSESSION, USE, SALE, ADMINISTRATION, DISTRIBUTION, OR TRAFFICKING IN ANY DRUG OF ABUSE OR HAS BEEN ADJUDICATED A DELINQUENT CHILD FOR THE COMMISSION OF AN OFFENSE THAT, IF COMMITTED BY AN ADULT, WOULD HAVE BEEN AN OFFENSE INVOLVING THE ILLEGAL POSSESSION, USE, SALE, ADMINISTRATION, DISTRIBUTION, OR TRAFFICKING IN ANY DRUG OF ABUSE.

(4) THE PERSON IS DRUG DEPENDENT, IN DANGER OF DRUG DEPENDENCE, OR A CHRONIC ALCOHOLIC.

(5) THE PERSON IS UNDER ADJUDICATION OF MENTAL INCOMPETENCE, HAS BEEN ADJUDICATED AS A MENTAL DEFECTIVE, HAS BEEN COMMITTED TO A MENTAL INSTITUTION, HAS BEEN FOUND BY A COURT TO BE A MENTALLY ILL PERSON SUBJECT TO HOSPITALIZATION BY COURT ORDER, OR IS AN INVOLUNTARY PATIENT OTHER THAN ONE WHO IS A PATIENT ONLY FOR PURPOSES OF OBSERVATION. AS USED IN THIS DIVISION, "MENTALLY ILL PERSON SUBJECT TO HOSPITALIZATION BY COURT ORDER" AND "PATIENT" HAVE THE SAME MEANINGS AS IN SECTION [5122.01](#) OF THE REVISED CODE.

(j) WHOEVER VIOLATES SUBSECTION (i) HEREOF, IN ADDITION TO ANY OTHER PENALTY PROVIDED FOR HEREIN, IS GUILTY OF OWNING A DANGEROUS OR VICIOUS DOG WHILE UNDER DISABILITY, A MISDEMEANOR OF THE FIRST DEGREE.

SECTION 2.

That all remaining provisions of Chapter 505 shall remain in full force and effect.

SECTION 3.

That this ordinance shall take effect and be in force from and after the earliest period allowed by law.

Passed this 19th day of April, 2011.

Fred Murrell, MAYOR /s/

Kathryn L. Lives, CLERK OF COUNCIL /s/