

ORDINANCE NO. 2016-03-L&R

**AMENDING VARIOUS SECTIONS OF SECTION 505 OF THE VILLAGE
OF GREENHILLS CODIFIED ORDINANCES REGARDING
VICIOUS AND DANGEROUS DOGS
AND DECLARING AN EMERGENCY**

WHEREAS, Chapter 505 of the Greenhills Codified Ordinances currently regulates animals and fowl, 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.

SECTION 1.

That various Sections of Chapter 505 of the Village of Greenhills Codified Ordinances shall be amended as set forth in Exhibit “A” attached hereto and incorporated herein by reference.

SECTION 2.

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

SECTION 3.

That this ordinance is hereby declared an emergency measure necessary for the health, peace, safety and welfare of the residents of the Village of Greenhills in that dangerous and vicious dogs could pose or have posed a threat to the humans and other domesticated animals. This ordinance shall be in full force and take effect upon its passage.

Passed this 22nd day of March, 2016.

David Moore, MAYOR /s/

Kathryn L. Lives, CLERK OF COUNCIL /s/

505.02 DANGEROUS, NUISANCE, AND VICIOUS DOGS.

(A) As used in this section:

- (1) (a) "Dangerous dog" means a dog that, without provocation, and subject to division (A)(1)(b) of this section, has done any of the following:
 - (i) Caused injury, other than killing or serious injury, to any person, or another domesticated animal;
 - (ii) Been the subject of a third or subsequent violation of division (C) of section 505.021 of this Code.
- (b) "Dangerous dog" does not include a police dog that has caused injury, other than killing or serious injury, to any person or has killed another dog while the police dog is being used to assist one or more law enforcement officers in the performance of their official duties.
- (2) "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.
- (3) (a) Subject to division (A)(3)(b) of this section, "nuisance dog" means a dog that without provocation and while off the premises of its owner, keeper, or harbinger has chased or approached a person, or another domesticated animal, in either a menacing fashion or an apparent attitude of attack or has attempted to bite or otherwise endanger any person, or another domesticated animal.
- (b) "Nuisance dog" does not include a police dog that while being used to assist one or more law enforcement officers in the performance of official duties has chased or approached a person in either a menacing fashion or an apparent attitude of attack or has attempted to bite or otherwise endanger any person.
- (4) "Police dog" means a dog that has been trained, and may be used, to assist one or more law enforcement officers in the performance of their official duties.
- (5) "Serious injury" means any of the following:
 - (a) Any physical harm that carries a substantial risk of death;
 - (b) Any physical harm that involves a permanent incapacity, whether partial or total, or a temporary, substantial incapacity;
 - (c) Any physical harm that involves a permanent disfigurement or a temporary, serious disfigurement;
 - (d) Any physical harm that involves acute pain of a duration that results in substantial suffering or any degree of prolonged or intractable pain.

- (6) (a) "Vicious dog" means a dog that, without provocation and subject to division (A)(6)(b) of this section, has killed or caused serious injury to any person, or another domesticated animal.

(b) "Vicious dog" does not include either of the following:

(i) A police dog that has killed or caused serious injury to any person while the police dog is being used to assist one or more law enforcement officers in the performance of their official duties;

(ii) 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.

(7) "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.

505.021 CONFINING, RESTRAINING, DEBARKING DOGS; HARBORING DANGEROUS OR VICIOUS DOGS.

(A) As used in this section, "dangerous dog" has the same meaning as in section 505.02 of this Code.

(B) No owner, keeper, or harbinger of any female dog shall permit it to go beyond the premises of the owner, keeper, or harbinger at any time the dog is in heat unless the dog is properly in leash.

(C) Except when a dog is lawfully engaged in hunting and accompanied by the owner, keeper, harbinger, or handler of the dog, no owner, keeper, or harbinger of any dog shall fail at any time to do either of the following:

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

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

(D) Except when a dangerous dog is lawfully engaged in hunting or training for the purpose of hunting and is accompanied by the owner, keeper, harbinger, or handler of the dog, no owner, keeper, or harbinger of a dangerous dog shall fail to do either of the following:

(1) While that dog is on the premises of the owner, keeper, or harbinger, securely confine it at all times in a locked pen that has a top, locked fenced yard, or other locked enclosure that has a top;

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(2) While that dog is off the premises of the owner, keeper, or harborer, keep that dog 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 that dog in a locked pen that has a top, locked fenced yard, or other locked enclosure that has a top;

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

(c) Muzzle that dog.

(E) No person who has been convicted of or pleaded guilty to three or more violations of division (C) of this section involving the same dog and no owner, keeper, or harborer of a dangerous dog shall fail to do the following:

(1) Obtain liability insurance with an insurer authorized to write liability insurance in this state providing coverage in each occurrence because of damage or bodily injury to or death of a person caused by the dangerous dog if so ordered by a court and provide proof of that liability insurance upon request to any law enforcement officer, county dog warden, or public health official charged with enforcing this section;

(2) Obtain a dangerous dog registration certificate from the county auditor pursuant to division (I) of this section, affix a tag that identifies the dog as a dangerous dog to the dog's collar, and ensure that the dog wears the collar and tag at all times;

(3) Notify the local dog warden immediately if any of the following occurs:

(a) The dog is loose or unconfined.

(b) 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 within the boundaries of that property.

(c) The dog attacks another domesticated animal while the dog is off the property of the owner of the dog.

(4) If the dog is sold, given to another person, or dies, notify the county auditor within ten days of the sale, transfer, or death.

(F) No person shall do any of the following:

(1) Debark or surgically silence a dog that the person knows or has reason to believe is a dangerous dog;

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(2) Possess a dangerous dog if the person knows or has reason to believe that the dog has been debarked or surgically silenced;

(3) Falsely attest on a waiver form provided by the veterinarian under division (G) of this section that the person's dog is not a dangerous dog or otherwise provide false information on that written waiver form.

(G) Before a veterinarian debarks or surgically silences a dog, the veterinarian may give the owner of the dog a written waiver form that attests that the dog is not a dangerous dog. The written waiver form shall include all of the following:

(1) The veterinarian's license number and current business address;

(2) The number of the license of the dog if the dog is licensed;

(3) A reasonable description of the age, coloring, and gender of the dog as well as any notable markings on the dog;

(4) The signature of the owner of the dog attesting that the owner's dog is not a dangerous dog;

(5) A statement that division (F) of section 505.021 of this Code prohibits any person from doing any of the following:

(a) Debarking or surgically silencing a dog that the person knows or has reason to believe is a dangerous dog;

(b) Possessing a dangerous dog if the person knows or has reason to believe that the dog has been debarked or surgically silenced;

(c) Falsely attesting on a waiver form provided by the veterinarian under division (G) of section 505.021 of the Revised Code that the person's dog is not a dangerous dog or otherwise provide false information on that written waiver form.

(H) It is an affirmative defense to a charge of a violation of division (F) of this section that the veterinarian who is charged with the violation obtained, prior to debarking or surgically silencing the dog, a written waiver form that complies with division (G) of this section and that attests that the dog is not a dangerous dog.

(I) (1) The county auditor shall issue a dangerous dog registration certificate to a person who is the owner of a dog, who is eighteen years of age or older, and who provides the following to the county auditor:

(a) A fee of fifty dollars;

(b) The person's address, phone number, and other appropriate means for the local dog warden or county auditor to contact the person;

(c) With respect to the person and the dog for which the registration is sought, all of the following:

- (i) Either satisfactory evidence of the dog's current rabies vaccination or a statement from a licensed veterinarian that a rabies vaccination is medically contraindicated for the dog;
- (ii) Either satisfactory evidence of the fact that the dog has been neutered or spayed or a statement from a licensed veterinarian that neutering or spaying of the dog is medically contraindicated;
- (iii) Satisfactory evidence of the fact that the person has posted and will continue to post clearly visible signs at the person's residence warning both minors and adults of the presence of a dangerous dog on the property;
- (iv) Satisfactory evidence of the fact that the dog has been permanently identified by means of a microchip and the dog's microchip number.

(2) Upon the issuance of a dangerous dog registration certificate to the owner of a dog, the county auditor shall provide the owner with a uniformly designed tag that identifies the animal as a dangerous dog. The owner shall renew the certificate annually for the same fee and in the same manner as the initial certificate was obtained. If a certificate holder relocates to a new county, the certificate holder shall follow the procedure in division (1)(3)(b) of this section and, upon the expiration of the certificate issued in the original county, shall renew the certificate in the new county.

(3) (a) If the owner of a dangerous dog for whom a registration certificate has previously been obtained relocates to a new address within the same county, the owner shall provide notice of the new address to the county auditor within ten days of relocating to the new address.

(b) If the owner of a dangerous dog for whom a registration certificate has previously been obtained relocates to a new address within another county, the owner shall do both of the following within ten days of relocating to the new address:

- (i) Provide written notice of the new address and a copy of the original dangerous dog registration certificate to the county auditor of the new county;
- (ii) Provide written notice of the new address to the county auditor of the county where the owner previously resided.

(4) The owner of a dangerous dog shall present the dangerous dog registration certificate upon being requested to do so by any law enforcement officer, dog warden, or public health official charged with enforcing this section.

(5) The fees collected pursuant to this division shall be deposited in the dog and kennel fund of the county.

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(J) No person shall own, keep, or harbor any vicious dog or other vicious animal, as defined in section 505.02 within the municipality.

505.0211 INJURY OR BODILY HARM INFLICTED BY DOG OR OTHER ANIMAL

(A) No person shall own, keep, or harbor any dog or other animal that kills, bites, or otherwise injures either:

(1) A person; or

(2) Another domesticated animal.

(B) Whoever violates this section is guilty of a misdemeanor of the fourth degree, and each subsequent offense shall be guilty of a misdemeanor of the third degree, and the dog or other animal may be seized, impounded, removed from the municipality, or humanely destroyed.

505.022 HEARINGS FOR DOG DESIGNATIONS.

(A) The municipal court or county court that has territorial jurisdiction over the residence of the owner, keeper, or harbinger of a dog shall conduct any hearing concerning the designation of the dog as a nuisance dog, dangerous dog, or vicious dog.

(B) If the Greenhills Municipal Manager, or the Greenhills Chief of Police, has reasonable cause to believe that a dog in the person's jurisdiction is a nuisance dog, dangerous dog, or vicious dog, either the Greenhills Municipal Manager or the Greenhills Chief of Police shall notify the owner, keeper, or harbinger of that dog, by certified mail or in person, of both of the following:

(1) That the Greenhills Municipal Manager or the Greenhills Chief of Police has designated the dog a nuisance dog, dangerous dog, or vicious dog, as applicable;

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

(C) If the owner, keeper, or harbinger of the dog disagrees with the designation of the dog as a nuisance dog, dangerous dog, 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 a hearing shall be in writing and shall be filed with the municipal court or county court that has territorial jurisdiction over the residence of the dog's owner, keeper, or harbinger. At the hearing, either the Greenhills Municipal Manager or the Greenhills Chief of Police who designated the dog as a nuisance dog, dangerous dog, or vicious dog has the burden of proving, by clear and convincing evidence, that the dog is a nuisance dog, dangerous dog, or vicious dog. If the dog has injured another domesticated animal or person, or has killed another domesticated animal or person, either of these actions shall constitute prima-facie evidence of violation of 505.02(A)(1)(a) or 505.02(6)(a).

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The owner, keeper, or harbinger of the dog or the person who designated the dog as a nuisance dog, dangerous dog, or vicious dog may appeal the court's final determination as in any other case filed in that court.

(D) A court, upon motion of an owner, keeper, or harbinger or an attorney representing the owner, keeper, or harbinger, may order that the dog designated as a nuisance dog, dangerous dog, or vicious dog be held in the possession of the owner, keeper, or harbinger until the court makes a final determination under this section or during the pendency of an appeal, as applicable. Until the court makes a final determination and during the pendency of any appeal, the dog shall be confined or restrained in accordance with the provisions of division (D) of section 505.021 of this Code that apply to dangerous dogs regardless of whether the dog has been designated as a vicious dog or a nuisance dog rather than a dangerous dog. The requirements established in the Revised Code that concern a nuisance dog, dangerous dog, or vicious dog, as applicable, until the court makes a final determination and during the pendency of any appeal.

(E) If a dog is finally determined under this section, or on appeal as described in this section, to be a vicious dog, division (D) of section 505.02 and divisions (D) to (I) of section 505.021 of this Code apply with respect to the dog and the owner, keeper, or harbinger of the dog as if the dog were a dangerous dog, and section 955.54 of the Revised Code applies with respect to the dog as if it were a dangerous dog, and the court shall issue an order that specifies that those provisions apply with respect to the dog and the owner, keeper, or harbinger in that manner. As part of the order, the court shall require the owner, keeper, or harbinger to obtain the liability insurance required under division (E)(1) of section 505.021 of this Code in an amount described in division (H)(2) of section 955.99 of the Revised Code.

(F) As used in this section, "nuisance dog," "dangerous dog," and "vicious dog" have the same meanings as in section 505.02 of this Code.

505.023 SPECIFIC PENALTIES.

(A) (1) Whoever violates division (B) of section 505.021 of this Code, or commits a violation of division (C) of section 505.021 of this Code that involves a dog that is not a nuisance dog, dangerous dog, or vicious dog shall be fined not less than twenty-five dollars or more than one hundred dollars on a first offense, and on each subsequent offense shall be fined not less than seventy-five dollars or more than two hundred fifty dollars and may be imprisoned for not more than thirty days.

(2) In addition to the penalties prescribed in division (A)(1) of this section, if the offender is guilty of a violation of division (B) of section 505.021 of this Code or a violation of division (C) of section 505.021 of this Code that involves a dog that is not a nuisance dog, dangerous dog, or vicious dog, the court may order the offender to personally supervise the dog that the offender owns, keeps, or harbors, to cause that dog to complete dog obedience training, or to do both.

(B) (1) Whoever commits a violation of division (C) of section 505.021 of this Code that involves a nuisance dog is guilty of a minor misdemeanor on the first offense and of a misdemeanor of the fourth degree on each subsequent offense involving the same dog.

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Upon a person being convicted of or pleading guilty to a third violation of division (C) of section 505.021 of this Code involving the same dog, the court shall require the offender to register the involved dog as a dangerous dog.

(2) In addition to the penalties prescribed in division (B)(1) of this section, if a violation of division (C) of section 505.021 of this Code involves a nuisance dog, the court may order the offender to personally supervise the nuisance dog that the offender owns, keeps, or harbors, to cause that dog to complete dog obedience training, or to do both.

(C) Whoever commits a violation of division (C) of section 505.021 of this Code that involves a dangerous dog or a violation of division (D) of that section is guilty of a misdemeanor of the fourth degree on a first offense and of a misdemeanor of the third degree on each subsequent offense. Additionally, the court may order the offender to personally supervise the dangerous dog that the offender owns, keeps, or harbors, to cause that dog to complete dog obedience training, or to do both, and the court may order the offender to obtain liability insurance pursuant to division (E) of section 505.021 of this Code. The court, in the alternative, may order the dangerous dog to be removed from the Village of Greenhills or be humanely destroyed by a licensed veterinarian, the county dog warden, or the county humane society at the owner's expense. With respect to a violation of division (C) of section 505.021 of this Code that involves a dangerous dog, until the court makes a final determination and during the pendency of any appeal of a violation of that division and at the discretion of the dog warden, the dog shall be confined or restrained in accordance with division (D) of section 505.021 of this Code or at the county dog pound at the owner's expense.

(D) (1) Whoever commits a violation of division (C) of section 505.021 of this Code that involves a vicious dog is guilty of a misdemeanor of the first degree if the dog kills another domesticated animal or a person, or causes serious injury to another domesticated animal or to a person. Additionally, the court may order the vicious dog to be removed from the Village of Greenhills or be humanely destroyed by a licensed veterinarian, the county dog warden, or the county humane society at the owner's expense.

(2) Until the court makes a final determination and during the pendency of any appeal of a violation of division (C) of section 505.021 of this Code and at the discretion of the dog warden, the dog shall be confined or restrained in accordance with the provisions described in division (D) of section 505.021 of this Code or at the county dog pound at the owner's expense.

(E) Whoever violates division (E) (2) of section 505.021 of this Code is guilty of a misdemeanor of the fourth degree.

(F) Whoever violates division (E) (1), (3), or (4) of section 505.021 of this Code is guilty of a minor misdemeanor.

(G) Whoever violates division (I) (4) of section 505.021 of this Code is guilty of a minor misdemeanor.

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(H) Whoever violates division (J) of section 505.021 of this Code is guilty of a misdemeanor of the first degree and the vicious dog or other vicious animal shall be seized, impounded, removed from the municipality, or humanely destroyed.

(I) Whoever violates any other section of Chapter 505 of this Code for which no other penalty is provided shall be guilty of a minor misdemeanor.

(J) As used in this section, "nuisance dog," "dangerous dog," and "vicious dog" have the same meanings as in section 505.02 of this Code.