

**ORDINANCE NO. 1542-2015**

*Introduced by: Mrs. Coontz  
First Reading: February 22, 2016  
Second Reading: March 7, 2016  
Public Hearing: March 21, 2016  
Third Reading: March 21, 2016*

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AN ORDINANCE AMENDING ORDINANCES 120-1935 AND 1065-1987,  
ESTABLISHING RESTRICTIONS FOR VICIOUS ANIMALS  
WITHIN THE VILLAGE OF LAKEMORE

Now, therefore, be it ordained by the Council of the Village of Lakemore, Ohio (the "Village"):

SECTION 1: For the purpose of this section, the following words and phrases shall have the following meanings ascribed to them:

**"American Bulldog."** Any American Bulldog or Old Country Bulldog, or any mixed breed of dog which contains, as an element of its breeding, the breed of American Bulldog or Old Country Bulldog as to be identifiable as partially of the breed of American Bulldog or Old Country Bulldog.

**"At large."** Off the premises of the owner.

**"Canary Dog."** Any Canary Dog or Perro de Presa Canario, or any mixed breed of dog which contains, as an element of its breeding, the breed of Canary Dog or Perro de Presa Canario as to be identifiable as partially of the breed canary dog or Perro de Presa Canario.

**"Fee."** The cost to obtain the required sign and collar will be at cost of the sign and collar. Registration of animal is free.

**"Muzzle."** A leather, wire, or device that, when fitted over an animal's snout, prevents biting and eating.

**"Owner."** Any person owning, keeping, possessing, harboring, maintaining, or having the care, custody, or control of an animal.

**"Premises which are not exclusively controlled by the owner."** Any real property or part thereof that:

- A. The owner of the dog does not hold the title to in fee simple or by leasehold; or

- B. Another, other than an immediate family member of the owner of the dog, holds an easement or right-of-way on said property or part thereof; or
- C. An owner or leaseholder of the real property has given access to the subject property to a person other than the owner of the dog who is not a member of the owner of the dog's immediate family; or
- D. Is part of the public right-of-ways owned by the Village of Lakemore whether or not the right-of-way is improved with streets, sidewalks, paving or other improvements; or
- E. The owner of the dog does not otherwise have exclusive control over.

**"Pit Bull."** Any Staffordshire Bull Terrier, American Pit Bull Terrier, or American Staffordshire Terrier Breed of dog, or any mixed breed of dog which contains, as an element of its breeding, the breed of Staffordshire Bull Terrier, American Pit Bull Terrier, or American Staffordshire Terrier as to be identifiable as partially of the breed of Staffordshire Bull Terrier, American Pit Bull Terrier or American Staffordshire Terrier.

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

**"Vicious animal."** Any animal that is the subject of a violation of Section 2(B) through (F), and is found by a court to be a continuing threat or danger to the public.

An animal that was deemed vicious or dangerous in another political jurisdiction outside of the Village corporation limits will automatically be deemed vicious in the Village.

SECTION 2: Any person owning, keeping, possessing, harboring, maintaining, or having the care, custody, or control of an animal shall be strictly liable if such animal is found to:

- A. Be at large within the Village unless securely attached upon a leash held in the hand of a person in a manner which continuously controls the animal.
- B. Snap at or attempt to bite or attempt to cause physical harm to any other person or domestic animal while the animal is off the premises

of the owner, or while on premises which are not exclusively controlled by the owner.

- C. Cause physical harm to the property of another while the animal is off the premises of the owner, or while on premises which are not exclusively controlled by the owner.
- D. Bite or otherwise cause physical harm to any person or domestic animal while the animal is off the premises of the owner, or while on premises which are not exclusively controlled by the owner.
- E. Bite or otherwise cause physical harm to mail carriers, utility workers, Village of Lakemore employees, delivery persons, or any police or emergency persons while the animal is on the premises of the owner or the premises under the control of the owner.
- F. Cause serious physical harm to any person, unless the animal:
  - 1. Was being teased, tormented or abused by a person, or
  - 2. Was coming to the aid or defense of a person who was not engaged in illegal or criminal activity and who was not using the animal as a means to carry out illegal or criminal activity;
  - 3. Caused serious physical harm to any person while such person was committing or attempting to commit a criminal trespass or other criminal offense on the premises of the owner, keeper, or harbinger of the animal.

### SECTION 3: Defenses.

- A. It shall be an affirmative defense to a violation of Section 2 that the animal was:
  - 1. Securely confined in an automobile or cage which was adequately ventilated.
  - 2. Being exhibited at a public show, zoo, museum, or public institution.
- B. No public law enforcement agency or member thereof, or a licensed private law enforcement agency or member thereof, shall be convicted of any violation of this section where the animal is owned by the agency and being utilized for law enforcement purposes.

SECTION 4: No person shall own, keep, possess, harbor, maintain, or have the care, custody, or control of an animal within the Village when such animal has been ordered by a court to be banned from the Village or destroyed.

SECTION 5: Any person owning, keeping, possessing, harboring, maintaining, or having the care, custody, or control of a Pit Bull, Canary Dog, American Bulldog or vicious animal shall:

- A. Identify the animal by having the animal wear, at all times, a fluorescent green collar available upon payment of applicable fee, from Village;
- B. Post on the premises, in a conspicuous place where the animal is kept, at least one Village-issued warning sign available, upon payment of applicable fee, from the Village. The sign shall be visible and capable of being read from the public highway or street;
- C. Identify the animal by having the animal tattooed with a code number provided by the Village or microchipped;
- D. Notify the Village within one week if the Pit Bull, Canary Dog, American Bulldog or vicious animal has died or has been sold or donated, and provide the Village with the name, address, and telephone number of the new owner;
- E. Keep the animal secured at all times by one of the following means:
  1. On the premises of owner:
    - a. Keep the animal inside the owner's home;
    - b. Keep the animal in a locked enclosure in the backyard which has a top, and has a concrete base with the fencing securely attached or anchored to the concrete perimeter to a depth of six inches, with or without person present. Such enclosure shall comply with applicable Village setback restrictions for dog kennels and shall not exceed 375 square feet (15' x 25') in size. Enclosure must be completed, with proper permits obtained, within 60 days of registration.
    - c. Keep the animal muzzled or on a chain-link leash in a fenced in backyard with an opaque, chain-link fence 6' high and embedded at least 1' into the ground throughout, with no person present. The animal may be without such muzzle or leash in a fenced in back yard with an opaque, chain-link fence 6' high and embedded at least 1' into the ground throughout, with person or persons of 18 years of age or older likewise outside with the animal and present in said yard. Fencing must be completed, with proper permits obtained, within 60 days of registration.
  2. Other than on the premises of owner:

Keep the animal muzzled and on a chain-link leash that is not more than 6' in length which is held in the hand and under the control of a person who is 18 years of age or older, who is physically capable of restraining and is outside with the animal.

- F. Pay the applicable fee and register the animal with the Village, as of the effective date hereof and between January 2 and January 31, and whenever an animal is newly obtained. At the time of registration, provide proof of liability insurance for the owner of the animal and for the owner of the property with an insurer authorized to write liability insurance in Ohio; providing coverage in each occurrence, subject to a limit, exclusive of interest and costs, of not less than one hundred thousand dollars (\$100,000.00) because of damage or bodily injury to or death of a person caused by the animal and that such insurance policy is paid in full for the entire period of registration, with a certificate of such insurance provided to Village at the time the collar required Section(5)(A) is obtained;
- G. Ensure that the animal does not go unconfined on the premises of another or be at large within the Village;
- H. Annually license the animal, if the animal is more than three months of age, with the County Auditor. Failure of any animal at any time to wear a valid license tag shall be prima facie evidence of lack of licensing;
- I. Vaccinate the animal against rabies by a licensed veterinarian at least once every three years; a tag indicating that said animal has been vaccinated against rabies must be worn by the animal at all times. Failure of any dog at any time to wear the rabies vaccination tag issued by the licensed veterinarian who administered the vaccine shall be prima facie evidence of the animal's lack of vaccination against rabies;
- J. Provide two color photos of the animal to Public Service Clerk or Fiscal Officer at the time the collar required by Section (5)(A) is obtained. If tattooed, provide one color photo of animal showing the tattoo number after the animal has been tattooed. If microchipped, provide proof.

SECTION 6: In order to prevent annoyance or injuries to the public health, safety, response or comfort, subsections B, D, and E of this section are strict liability offenses.

SECTION 7: Seizure

- A. In the event that an animal warden or law enforcement agent has probable cause to believe that a vicious animal is being harbored or cared for in violation of this Ordinance, the warden or agent may petition a court of competent jurisdiction to order the seizure and impoundment of the vicious animal pending trial.
- B. In the event that a warden or agent has probable cause to believe that a vicious animal is running at large, then the warden or agent may seize and impound the animal without seeking prior court order.
- C. Nothing within this section shall be construed to limit the authority of the warden or his deputy from otherwise seizing any animal maintained in violation of this code which presents an immediate risk of physical harm to any person or property.

#### SECTION 8: PENALTY

- A. Whoever (owner of property or owner of animal) violates any provision of Section (2)(A) is guilty of a minor misdemeanor for a first offense; for each subsequent offense such person is guilty of a misdemeanor of the fourth degree.
- B. Whoever (owner of property or owner of animal) violates any provision of Section (2)(B), Section (2)(C), or Section (2)(E) is guilty of a misdemeanor of the fourth degree.
- C. Whoever (owner of property or owner of animal) violates any provision of Section (2)(D), Section (2)(F), or Section 6, is guilty of a misdemeanor of the first degree.
- D. Whoever (owner of property or owner of animal) violates any provision Section (5)(A) through (J) is guilty of a misdemeanor of the third degree, and shall be subject to a mandatory non-suspendable fine of five hundred dollars. If the Court finds that the animal presents a continuing threat or danger to the public, the Court shall order that the animal be humanely destroyed.
- E.. Any person (owner of property or owner of animal) found guilty of violating the provisions of this chapter shall make restitution to the Village all expenses and applicable fees including shelter, food and veterinary expenses necessitated by the seizure, impoundment or destruction of any animal that is the subject of the violation.
- F. Upon a conviction or guilty plea for a violation of Section 2 (A) through (F), the Court shall make a determination as to whether the animal which is the subject of the violation presents a continuing threat or danger to the public. If the Court finds that the animal presents a continuing threat

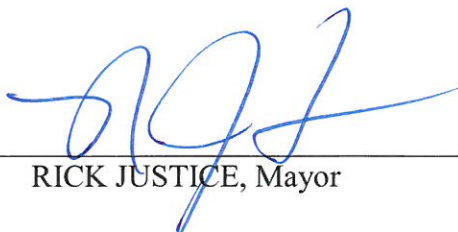
or danger to the public, the Court shall order that the animal either be humanely destroyed or kept in a manner that meets all the requirements of Section (5)(A) through (J).

G. Any animal which has been banned from the Village, and is found to be within the Village shall be seized and upon Court order be humanely destroyed. Any animal which is the subject of a violation of Section (4), or a second violation of Section (5)(A) through (J) shall be ordered by the Court to be humanely destroyed. (R.C. § 2927.21(C))

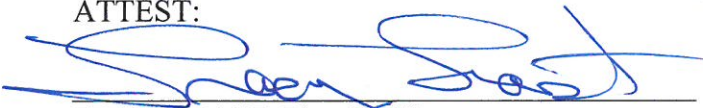
SECTION 9: That this ordinance shall be in effect from and after the earliest period allowed by law.

Passed: March 21, 2016

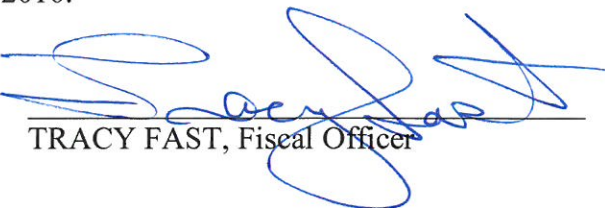
In Effect as of July 1, 2016

  
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RICK JUSTICE, Mayor

ATTEST:

  
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TRACY FAST, Fiscal Officer

I, Tracy Fast, Fiscal Officer of the Village of Lakemore, do hereby certify that the foregoing Ordinance No. 1542-2015 was duly adopted by Council at its regular meeting held on March 21, 2016.

  
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TRACY FAST, Fiscal Officer