

**ORDINANCE NO. 1694-2020**

Introduced by: Ms. Anderson  
First Reading: November 2, 2020  
Second Reading: November 16, 2020  
Public Hearing: December 7, 2020  
Third Reading: December 7, 2020

**AN ORDINANCE AMENDING ORDINANCES 1542-2015, 1065-1987,  
AND 120-1935, 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:

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

**"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 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

B. 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

C. 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

D. The owner of the dog does not otherwise have exclusive control over.

**"Unsecured."** Not securely confined indoors, or not securely restrained by means of a collar and chain, pen, fence or similar physical device, or not otherwise in the reasonable control of the owner.

**"Vicious dog."** Any dog that, without provocation, has killed or caused serious injury to any person.

"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.

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.

**"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.

SECTION 2: Any person who is the owner, keeper, or harbinger of any animal shall be strictly liable if the owner, keeper, or harbinger of the animal:

- A. Permits it to run at large within the Village.
- B. Permits it to bite or attempt to bite or otherwise cause or attempt to cause physical harm to any other person or domestic animal while the animal is on premises which are not exclusively controlled by the owner.
- C. Permits it to 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. Permits it to 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.
- E. Permits it to 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 any 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 at the time of the alleged violation of was 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 vicious dog shall:

- A. Identify the dog by having the dog 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 dog 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 dog by having the dog tattooed with a code number provided by the Village or microchipped;
- D. Notify the Village within one week if the dog 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 dog secured at all times by one of the following means:
  1. While on the premises of the owner:

a. Inside of the owner's home; or

b. Within a locked enclosure on the property of the owner, which enclosure has a top, a concrete base, and fencing securely attached or anchored to the concrete perimeter of the base to a depth of six inches. Such enclosure shall comply with applicable Village setback restrictions for dog kennels and shall not exceed 375 square feet (15' x 25') in size. The enclosure must be completed within 60 days after receipt from the Village of a permit to construct or erect such enclosure; or

c. Muzzled or on a chain-link leash in a fenced-in area of the owner's property with an opaque, chain-link fence 6' high and embedded at least 1' into the ground throughout. The dog 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, provided a person of 18 years of age or older is with the dog. The installation of a fence must be completed within 60 days after receipt from the Village of a permit to construct or erect such fence.

2. Other than on the premises of owner:

Muzzled and on a chain-link leash that is not more than 6' and under the control of a person who is 18 years of age or older, who is physically capable of restraining the dog.

F. Pay the applicable fee and register the dog with the Village, as of the effective date hereof and between January 2 and January 31, and within sixty days of whenever a vicious dog is newly obtained. At the time of registration, an owner of a vicious dog must provide proof of liability insurance for the owner of the dog 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 dog and that such insurance policy is paid in full for the entire period of registration, with a certificate of such insurance provided to the Village at the time the collar required Section(5)(A) is obtained;

G. Ensure that the dog does not go unconfined on the premises of another or be at large within the Village;

H. Annually license the dog, if the dog is more than three months of age, with the County Auditor. Failure of any dog at any time to wear a valid license tag shall be prima facie evidence of lack of licensing;

I. Vaccinate the dog against rabies by a licensed veterinarian at least once every three years; a tag indicating that said dog 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 dog's lack of vaccination against rabies;

J. Provide two color photos of the dog to the 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 the dog is microchipped, proof of microchipping must be provided.

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 dog 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 dog 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 dog maintained in violation of this code which presents an immediate risk of physical harm to any person or property.

#### SECTION 8: Penalty

A. Whoever violates 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 violates Section (2)(B), Section (2)(C), or Section (2)(E) is guilty of a misdemeanor of the fourth degree.

C. Whoever violates Section (2)(D) or Section (2)(E) is guilty of a misdemeanor of the first degree.

D. Whoever violates any provision with Section 5 is guilty of a misdemeanor of the third degree, and shall be subject to a mandatory fine of five hundred dollars. If the Court finds that the dog that is the subject of a violation of Section 5 presents a continuing threat or danger to the public, the Court shall order that the animal be humanely destroyed.

E. Any person found guilty of violating any provisions of this chapter shall make restitution to the Village for any and 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 any provision with Section 2, 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.

G. Any animal which has been banned from the Village, and is subsequently 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 any provision within Section 4, or a second violation of any provision of Section 5 shall be ordered by the Court to be humanely destroyed.

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

Passed: December 7, 2020

ATTEST:   
TRACY FAST, Fiscal Officer

  
RICHARD COLE, JR., Mayor

I, Tracy Fast, Fiscal Officer of the Village of Lakemore, do hereby certify that the foregoing Ordinance No. 1694-2020 was duly adopted by Council at its regular meeting held on *December 7, 2020*.

  
TRACY FAST, Fiscal Officer