

**ORDINANCE AMENDING SECTION 505.02
OF THE CODIFIED ORDINANCES**

WHEREAS, Section 505.02 of the Codified Ordinances regulates dangerous and vicious dogs within the Village, as well as dogs running at large; and

WHEREAS, the Ohio Supreme Court has recently held that portions of the Ohio Revised Code dealing with dangerous and vicious dogs are unconstitutional; and

WHEREAS, certain provisions of Section 505.02 of the Codified ordinances mirror these portions of the Ohio Revised Code; and

WHEREAS, the Village of Greenhills desires to continue to regulate dangerous and vicious dogs within the Village in compliance with the constitutional dictates of the Ohio Supreme Court; and

WHEREAS, Council has determined that the regulations for dogs running at large would be better situated in a separate section of the Codified Ordinances.

NOW, THEREFORE, be it ordained by the Council of the Village of Greenhills, Ohio, _____ members elected thereto concurring:

Section 1. That the Council of the Village of Greenhills hereby amends Section 505.02 of the Codified Ordinances as set forth in Exhibit "A" attached hereto and incorporated herein by reference.

Section 2. That the remaining provisions of Section 505.02 shall remain in full force and effect.

Section 3. That this Ordinance shall be and is effective from and after the earliest period allowed by law.

PASSED THIS __ DAY OF _____, 2007.

PRESIDENT OF COUNCIL

ATTEST:

CLERK OF COUNCIL

APPROVED:

MAYOR

EXHIBIT A

505.02 DANGEROUS AND VICIOUS DOGS; ~~RUNNING AT LARGE.~~

(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, locked fenced yard 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 or vicious dog shall fail to do either 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, locked fenced yard or

other locked enclosure which has a top, except that 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.

~~(c) — Dog Running at Large.~~

~~———— (1) — No person being the owner of or having charge of any dog, whether wearing a registration tag or not, shall permit it to run at large, upon any public place or upon the premises of another. No owner, keeper or harbinger of any female dog shall permit such dog to go beyond the premises of such owner or keeper at any time such dog is in heat, unless such dog is properly in leash. The owner or keeper of every dog shall at all times keep such dog either confined upon the premises of the owner or keeper, or under reasonable control of some person.~~

~~———— (2) — The running at large of any such dog in or upon any of the places mentioned in this section is prima facie evidence that it is running at large in violation of this section.~~

~~(d) — Dog Running at Large Violation.~~

~~———— (1) — Whoever violates subsection (c) hereof is guilty of a minor misdemeanor for a first offense and a misdemeanor of the fourth degree for each subsequent offense.~~

~~———— (2) — In addition to the penalties prescribed in subsection (d)(1) hereof, if the offender is guilty of a violation of subsection (c) hereof, the court may order the offender to personally supervise the dog that he owns, keeps or harbors, to cause that dog to complete dog obedience training, or to do both. The court may also order the offender to pay the Municipality's costs of handling and confining the dog.~~

(ec) 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 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.

(fd) Vicious Dog Violation. If a violation of subsection (b) 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 causes injury other than killing or serious injury, to any person.

(3) 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 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) 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.

(f) (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 a 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.

(g) 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.