

Ordinance No. \_\_\_\_\_

Passed \_\_\_\_\_, 20\_\_\_\_

ORDINANCE NO. W -12

AN ORDINANCE AMENDING SECTION 505 RELATING TO DANGEROUS AND VICIOUS DOGS OF THE CODIFIED ORDINANCES OF THE CITY OF ORRVILLE, OHIO, AND DECLARING AN EMERGENCY.

BE IT ORDAINED by the Council of the City of Orrville, Ohio:

Section 1: That Section 505 of the Codified Ordinances of the City of Orrville, Ohio be revised as follows:

505.01 DEFINITIONS.

As used in this chapter unless otherwise specifically provided herein:

(a) (1) "Dangerous dog" means a dog that, without provocation, and subject to subsection (a)(2) hereof has done any of the following:

A. Caused injury, other than killing or serious injury, to any person;

B. Killed another dog;

C. Been the subject of a third or subsequent violation of Section 505.01(c).

(2) "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.

(b) "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.

(c) (1) Subject to subsection (c)(2) hereof, "nuisance dog" means a dog that without provocation and while off the premises of its owner, keeper or harborer 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.

(2) "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.

(d) "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.

(e) "Serious injury" means any of the following:

(1) Any physical harm that carries a substantial risk of death;

(2) Any physical harm that involves a permanent incapacity, whether partial or total, or a temporary, substantial incapacity;

(3) Any physical harm that involves a permanent disfigurement or a temporary, serious disfigurement;

(4) Any physical harm that involves acute pain of a duration that results in substantial suffering or any degree of prolonged or intractable pain.

(f) (1) "Vicious dog" means a dog that, without provocation and subject to subsection (f)(2) hereof has killed or caused serious injury to any person.

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

A. 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;

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 harborer of the dog.

(g) "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. (ORC 955.11)

505.05 DOGS AND OTHER ANIMALS RUNNING AT LARGE.

(a) No person being the owner or having charge of cattle, horses, swine, sheep,

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geese, ducks, goats, turkeys, chickens or other fowl or animals shall permit them to run at large upon any public place, or upon any unenclosed lands or upon the premises of another. (ORC 951.02)

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

(c) No owner, keeper, or harborer 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 harborer by a leash, tether, adequate fence, supervision, or secure enclosure to prevent escape.
- (2) Keep the dog under the reasonable control of some person. (ORC 955.22)

(d) The running at large of any such animal 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.

(e) Whoever violates this section is guilty of a minor misdemeanor. (ORC 951.02)

### 505.29 DANGEROUS DOGS.

(a) Except when a dangerous dog is lawfully engaged in hunting or training for the purpose of hunting and is accompanied by the owner, keeper, harborer, or handler of the dog, no owner, keeper, or harborer 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 harborer, securely confine it at all times in a building, in a locked pen that has a top, locked fenced yard or other locked enclosure that has a top;
  - 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 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.
- (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 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.

(b) 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 Ohio R.C. 955.22(D), 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 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. (ORC 955.22)

(c) Whoever violates subsection (a) hereof 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 subsection (b) hereof. 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 at the owner's expense.

(d) (1) Whoever violates subsection (b)(2) hereof is guilty of a misdemeanor of the fourth degree.  
 (2) Whoever violates subsections (b)(1), (3) or (4) hereof is guilty of a minor misdemeanor. (ORC 955.99)

(e) (1) Whoever violates subsection (a) hereof is guilty of a misdemeanor of the fourth degree. (ORC 951.99)

(2) A. Whoever violates subsection (b) hereof is guilty of a minor misdemeanor for a first offense and a misdemeanor of the fourth degree for each subsequent offense.  
 B. In addition to the penalties prescribed in subsection (e)(2)A. hereof, if the offender is guilty of a violation of subsection (b) hereof, 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.

(3) A. 1. Whoever violates subsection (c) hereof that involves a dog that is not a nuisance dog, dangerous dog or vicious dog 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 above, if the offender is guilty of a violation of subsection (c) hereof, 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 subsection (c) hereof, 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. Upon a person being convicted of or pleading guilty to a third violation of subsection (c) hereof, 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 above, if a violation of subsection (c) hereof 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 obedience training, or to do both.

C. Whoever commits a violation of subsection (c) hereof that involves a dangerous dog, 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 Ohio R.C. 955.22. The court, in the alternative, may order the dangerous dog to 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 subsection (c) hereof 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

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accordance with division (D) of Ohio R.C. 955.22 or at the County Dog Pound at the owner's expense.

D. 1. Whoever commits a violation of subsection (c) hereof that involves a vicious dog is guilty of one or the following:

a. A felony, if the dog kills a person, and shall be prosecuted under appropriate State law. Additionally, the court shall order that the vicious dog be humanely destroyed by a licensed veterinarian, the County Dog Warden or the County Humane Society at the owner's expense.

b. A misdemeanor of the first degree if the dog causes serious injury to a person. Additionally, the court may order the vicious dog to be humanely destroyed by a licensed veterinarian, the County Dog Warden, or the County Humane Society;

2. If the court does not order the vicious dog to be destroyed under subsection (e)(3)D.1.b. hereof, the court shall issue an order that specifies that division (D) of Ohio R.C. 955.11 and divisions (D) to (I) of Ohio R.C. 955.22 apply with respect to the dog and the owner, keeper or harborer of the dog as if the dog were a dangerous dog and that Ohio R.C. 955.54 applies with respect to the dog as if it were a dangerous dog. As part of the order, the court shall order the offender to obtain the liability insurance required under division (E)(1) of Ohio R.C. 955.22 in an amount, exclusive of interest and costs, that equals or exceeds one hundred thousand dollars. Until the court makes a final determination and during the pendency of any appeal of a violation of subsection (c) hereof 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 Ohio R.C. 955.22 or at the County Dog Pound at the owner's expense. (ORC 955.99)

Section 2: That this ordinance is hereby declared to be an emergency measure necessary for the immediate preservation of the public peace, health and safety of said City, therefore, this ordinance shall be in effect immediately after its passage and approval by the Mayor.

PASSED THIS 17<sup>th</sup> day of December, 2012.

ATTEST:

Jeanne Steiner  
Clerk of Council

David S. Shankland  
Mayor

12/17/12  
Date

[Signature]  
President of Council