

ORDINANCE NO. 2323

AN ORDINANCE REQUIRING THE KEEPING OF DANGEROUS AND VICIOUS DOGS AND REQUIRING LIABILITY INSURANCE THERON

WHEREAS, the Council of the Village of Dennison has determined that it is necessary to regulate the keeping of dangerous and vicious dogs within the Village limits in order to protect the health, safety and welfare of the Village residents:

NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE VILLAGE OF DENNISON, STATE OF OHIO;

SECTION 1. Definitions.

A. "Dangerous dog" means a dog that, without provocation, and subject to division (A)(1)(b) of this section, has chased or approached in either a menacing fashion or an apparent attitude of attack, or has attempted to bite or otherwise endanger any person, while that dog is off the premises of its owner, keeper, or harborer and not under the control of its owner, keeper, harborer, 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.

B. "Dangerous dog" does not include a police dog that has chased or approached in either a menacing fashion or an apparent attitude of attack, or has 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.

C. "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.

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 duties.

E. "Vicious dog" means a dog that, without provocation and subject to division (A)(4)(b) of this section, meets any of the following:

- (i) Has killed or caused serious injury to any person; or
- (ii) Has caused injury, other than killing or serious injury, to any person, or has killed another dog or domestic animal or livestock.

F. "Vicious dog" does not include either of the following:

- (i) A police dog that has killed or caused serious injury to any person 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
- (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 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.

SECTION 2. Vicious or Dangerous Dog to be Restrained.

A. Except when a dangerous or vicious 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 or vicious dog shall fail to do either of the following:

- (i) While that dog is on the premises of the owner, keeper, or harborer, 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, except that a dangerous dog may, in the alternative, be tied with a leash or tether so that the dog is adequately restrained.
- (ii) 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; or
 - (c.) Muzzle that dog.

SECTION 3. Hearing.

A. If the Dennison Police Department encounters a dog it believes to be dangerous or vicious per the definitions contained in this Ordinance, it may seize the dog. The dog shall be kept by the Dennison Police Department or any agency which is capable of containing said animal until a hearing can be held on the preliminary issue of whether or not the dog is dangerous or vicious.

B. The Court shall set a hearing within Ten (10) days of the date on which the dog is seized by the Police Department.

C. At the hearing, the Village shall have the burden of setting forth evidence to show that the dog is dangerous or vicious as defined by this Ordinance. If the Village is successful in proving the same, the owner of the dog shall be liable for any costs involved in seizing, storing, and caring for the dog. If the Village is unsuccessful in proving that the dog is dangerous or vicious, the dog shall be immediately released to the owner and the owner shall not be liable for any costs incurred by the Village.

SECTION 4. List of Vicious or Dangerous Dogs to be Kept.

A. The Village shall keep a list of dogs found to be dangerous and/or vicious under this Ordinance. The Village shall also keep a list of owners found to have violated this Ordinance.

SECTION 5. Owners of Dangerous or Vicious Dogs to Have Liability Insurance.

A. Every owner, keeper, or harborer of any dog found to be dangerous or vicious under this Ordinance or any other substantially similar provision of the Ohio Revised Code or any other municipal ordinance shall obtain and maintain liability insurance with an insurer authorized to write liability insurance in this state providing coverage in each occurrence, subject to a limit, exclusive of interest and costs, of not less than One Hundred Thousand (\$100,000) Dollars because of damage or bodily injury to or death of a person caused by the vicious dog.

B. Proof of insurance must be shown to any member of the Dennison Police Department at any time requested.

SECTION 6. Vicious or Dangerous Dogs not to be Kept in Village.

A. No person shall own, keep or harbor any dog found to be dangerous or vicious under this Ordinance or any other substantially similar provision of the Ohio Revised Code or any other municipal ordinance within the Village limits.

SECTION 7. Transfer of Ownership of Dog.

A. Upon the transfer of ownership of any dog, the seller of the dog shall give the buyer a transfer of ownership certificate that shall be signed by the seller. The certificate shall contain the registration number of the dog, the name of the seller and a brief description of the dog. Blank forms may be obtained from the Village Clerk's Office.

B. Prior to the transfer of ownership or possession of any dog, upon the buyer's or other transferee's request, the seller or transferor of the dog shall give the buyer or transferee a written notice relative to the behavior and propensities of the dog.

C. Within ten (10) days of the transfer of ownership or possession of any dog, if the seller or transferor of the dog has knowledge that the dog is a dangerous or vicious dog, he or she shall give the buyer or transferee, the Board of Health for Tuscarawas County, and the Tuscarawas County Dog Warden a completed copy of a written form which shall contain the following information:

1. The name and address of the buyer or transferee of the dog.
2. The age, sex, color, breed and current registration number of the dog.
3. Answers to the following questions:
 - (a) Has the dog ever chased or attempted to attack or bite a person? If yes, please describe the incident including the location, date and person chased or attacked.
 - (b) Has the dog ever bitten a person? If yes, please describe the incident including the location, date and person bitten.
 - (c) Has the dog ever seriously injured or killed a person? If yes, please describe the incident including the location, date and person injured or killed.
4. This form is available at the office of the Tuscarawas County Dog Warden.

SECTION 8. Penalties.

A. Any person who violates any provision of this Ordinance shall be guilty of a Third (3rd) Degree Misdemeanor on the first offense.

B. Any person who violates any provision of this Ordinance and who previously has been convicted of or plead guilty to a violation of this Ordinance or other equivalent offense is guilty of a Second (2nd) Degree Misdemeanor.

C. If an animal is found to be running free or unrestrained as required in this Ordinance, and the animal has previously been adjudicated to be dangerous or vicious under this Ordinance or any substantially similar law, ordinance or regulation, then that animal may be destroyed in a humane manner by the Dennison Police Department or any other agency capable of the same.

D. Any person who violates any provision of this Ordinance and who previously has been convicted of or plead guilty to two (2) or more violations of this Ordinance or other equivalent offense is guilty of a First (1st) Degree Misdemeanor.

SECTION 9. Open and Public Meeting.

A. The foregoing Ordinance was adopted and all actions and deliberations of the Village of Dennison, Tuscarawas County, Ohio relating thereto were conducted in open meetings to the public in compliance with all applicable legal requirements including Sections 121.22 of the Ohio Revised Code. This ordinance shall take effect and be in force immediately upon its passage and approval by Council and shall become effective upon passage by Council.

Read this 4th day of January, 2007.

Read this 18th day of January, 2007.

PASSED this 1st day of February, 2007.

APPROVED:

MAYOR PAUL COLLINS

ATTEST:

ALICE TORCH, CLERK

APPROVED AS TO FORM:

JASON L. JACKSON, SOLICITOR