

ORDINANCE NO. 2023-32

**AN ORDINANCE ENACTING AN ANIMAL CONTROL CODE FOR
THE VILLAGE OF ARCANUM, OHIO**

BE IT ORDAINED, by the Council of the Village of Arcanum, Darke County, Ohio, to-wit:

SECTION ONE: DEFINITIONS

(a) For the purpose of this Ordinance, the following definitions shall apply:

- (1) "Dangerous Dog" means a dog (other than a police dog) that, without provocation, has done any of the following:
 - i. Caused injury, other than killing or serious injury, to any person;
 - ii. Killed another dog; or
 - iii. Been the subject of a third or subsequent violation of Ohio Revised Code § 955.22(C) or any substantially equivalent municipal ordinance.
- (2) "Frequent" means often, repeated or recurring.
- (3) "Nuisance Dog" means a dog (other than a police dog) that without provocation and while off the premises of its owner, keeper or harbinger 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.
- (4) "Owner" means any person owning, handling, keeping, possessing, harboring, maintaining or having the care, custody or control of an animal.
- (5) "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.
- (6) "Serious Injury" includes any of the following:
 - i. Any physical harm that carries a substantial risk of death;
 - ii. Any physical harm that involves a permanent incapacity, whether partial or total, or a temporary, substantial incapacity;
 - iii. Any physical harm that involves a permanent disfigurement or a temporary, serious disfigurement; or
 - iv. Any physical harm that involves acute pain of a duration that results in substantial suffering or any degree of prolonged or intractable pain.
- (7) "Vicious Dog" means a 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; 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 harbinger of the dog.
- (8) "Without Provocation." A dog acts "without provocation" when it was not teased, tormented or abused by a person, or it 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 the activity.

SECTION TWO: DOGS RUNNING AT LARGE

- (a) No owner, keeper, or harbinger of any dog or animal, other than a cat or an on-duty police dog, shall fail at any time to do either of the following:
 - (1) Keep the dog or animal physically confined or restrained upon the premises of the owner, keeper, or harbinger by a leash, tether, adequate fence, or secure enclosure to prevent escape; or
 - (2) Keep the dog or animal restrained by a leash or tether when off the premises of the owner, keeper, or harbinger.

- (b) The running at large of any such animal is prima-facie evidence of a violation of this Section.
- (c) Any police officer or Dog Warden is authorized to enter private property to capture any animal running at large.
- (d) Penalty.
 - (1) Whoever violates this Section that involves an animal that is not a dangerous dog or a vicious dog is guilty of a minor misdemeanor for a first offense and a misdemeanor of the fourth degree for each subsequent offense.
 - (2) Whoever violates this Section that involves a nuisance dog is guilty of a minor misdemeanor for a first offense and a misdemeanor of the fourth degree for each subsequent offense involving the same dog. Upon a person being convicted of or pleading guilty to a third violation of this Section involving the same dog, the court shall require the offender to register said dog as a dangerous dog.
 - (3) Whoever commits a violation of this Section 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 dangerous dog to be humanely destroyed by a licensed veterinarian, the County Dog Warden, or the County Humane Society at the owner's expense.
 - (4) Whoever commits a violation of this Section that involves a vicious dog is guilty of one of the following:
 - i. A felony of the fourth degree if the dog kills a person, and the person 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.
 - ii. 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 at the owner's expense.
 - iii. A misdemeanor of the third degree if the dog causes physical 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 at the owner's expense.
 - iv. A misdemeanor of the fourth degree in all other instances on a first offense and of a misdemeanor of the third degree on each subsequent offense. 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 at the owner's expense.

SECTION THREE: NUISANCE CONDITIONS

- (a) In order to avoid an unhealthy accumulation of feces, other waste, or foul odor, and to prevent the attraction of feral/stray animals or an infestation of insects/rodents within the Village, the following acts shall be prohibited:
 - (1) No person, being the owner, keeper, or harbinger of any animal, shall permit such animal to scratch, dig, urinate, or defecate on private property other than on the private property of the owner, keeper, or harbinger of the animal. This Section does not apply to public property or road right of way so long as the owner, keeper, or harbinger of the animal immediately repairs any damage and immediately removes all feces deposited by such animal and disposes of same in a sanitary manner.
 - (2) No person shall provide food for dogs, cats, feral cats, deer, geese, ducks, raccoons, fowl, or other wild animals or wildlife by setting such food out on any public property or within a One Hundred (100) yard radius of any private residence, including but not limited to, open or enclosed residential porches accessible by any animal or public right-of-way. Other than cats, this Section does not apply to animals owned by that person or songbirds fed from a stationary bird feeder.
- (b) Whoever violates this Section is guilty of a minor misdemeanor.

SECTION FOUR: TETHERING ANIMALS

- (a) No person shall tether an animal outside of a dwelling, without shelter, under any of the following circumstances:
- (1) For more than eight (8) consecutive hours in a twenty-four (24) hour period with not less than a one (1) hour period between tetherings;
 - (2) If a heat or cold advisory has been issued by a local or state authority or the National Weather Service;
 - (3) If a severe weather warning has been issued by a local or state authority or the National Weather Service;
 - (4) If the tether is less than fifteen (15) feet in length;
 - (5) If the tether allows the animal to touch the adjacent property boundary line or fence, cross the property line, or cross onto public property;
 - (6) If the tether is attached by means of a pinch-type, prong-type, or choke-type collar or if the collar is unsafe or is not properly fitted; or
 - (7) If the animal is not provided with the necessary items identified in Section Four(c) herein.
- (b) Whoever violates this Section is guilty of a minor misdemeanor on the first offense, a misdemeanor of the fourth degree on the second offense, and a misdemeanor of the first degree on the third or any subsequent offense. Notwithstanding the foregoing penalties, if an animal becomes sick or injured as a result of a violation of this Section, then whoever violates this Section is guilty of a misdemeanor of the first degree.

SECTION FIVE: NEGLECT OF ANIMALS

- (a) No owner, keeper, or harbinger of a dog, cat, or other domestic animal shall knowingly cause any condition that is probable to result in permanent injury, death, or harm to such animal, including confining an animal in a motor vehicle under conditions that are probable to endanger the health of the animal. This Section shall not apply to veterinarian assisted euthanasia of an animal.
- (b) No person shall keep any animal in a place that is unsanitary, including but not limited to, any place where there is an unhealthy accumulation of feces or other waste, foul odor, or where there is an infestation of insects or rodents.
- (c) No person who owns, keeps, or harbors an animal shall fail to provide the animal all of the following needs:
- (1) Clean, potable drinking water at all times, and suitable food, of sufficient quality and quantity as to ensure normal growth and the maintenance of normal body weight;
 - (2) Food and water receptacles that are kept clean and located so as to avoid contamination by feces or other wastes;
 - (3) Shelter from the elements, including heat, cold, wind, rain and snow. If the animal is housed outside, a structure for shelter and protection must be provided that is suitable for the animal's age, condition, size, and type. The structure must be completely enclosed and have a single entrance/exit secured with a flap, door, or similar device. The structure shall be moisture-resistant, wind-resistant, and of suitable size and type to allow the animal to stand, turn about freely, lie in a normal position, and regulate proper body temperature. The structure shall be made of a durable material with a solid, moisture-proof floor or a floor raised at least two (2) inches from the ground. Suitable drainage shall be provided so that water cannot be reasonably expected to gather and stand within ten (10) feet of the structure, and so the animal has access to a dry area at all times. Proper bedding of straw or similar material, that remains dry, must be utilized inside the structure. All structures required by this Section shall be subject to all building and zoning regulations of the Village of Arcanum.

- (d) No person who confines an animal by means of a cage or a pen shall fail to conform it to the following requirements:
- (1) The cage or pen shall be appropriate to the animal's size, weight, and other characteristics, with sufficient space to allow the animal to turn about freely and lie in a normal position;
 - (2) The cage or pen shall provide sufficient shade to allow the animal to escape the direct rays of the sun at all times; and
 - (3) The cage or pen shall be regularly cleaned.
- (e) Whoever violates this Section is guilty of a misdemeanor of the first degree.

SECTION SIX: BARKING OR HOWLING DOGS

- (a) No person shall own, keep, or harbor any dog which disturbs the peace by barking, yelping, howling, or making other loud noises to the annoyance and/or discomfort of any person. Frequent barking, yelping, howling, or other loud noise for a period of fifteen (15) minutes by any dog, whether confined inside a residence or building or to an outside area, shall be deemed to have disturbed the peace and to have caused the annoyance and discomfort of persons, provided that at the time of the complaint, no person or persons were trespassing or threatening to trespass upon the private property of the owner, and provided that the dog was not being teased or provoked in any manner.
- (b) Whoever violates this Section is guilty of a minor misdemeanor. If the offender previously has been convicted of or pleaded guilty to a violation of this Section, then a violation of this Section is a misdemeanor of the third degree. If the offender previously has been convicted of or pleaded guilty to two (2) or more violations of this Section, then a violation of this Section is a misdemeanor of the first degree.

SECTION SEVEN: ENFORCEMENT

- (a) Any and all provisions of this Ordinance shall be enforced by the Village Police Chief, or his/her designee.

SECTION EIGHT: NOTICE OF VIOLATION

- (a) Where a violation of any provision of this Code is found to exist, the Village through the Police Chief, or his, her designee, shall cause a written citation of such violation to be served upon the owner, keeper, or harbinger of any animal in violation of the provisions set forth herein.

SECTION NINE: EFFECTIVE DATE

- (a) Because of the need to protect the health, safety, and welfare of the inhabitants of the Village of Arcanum, as well as animals within the Village of Arcanum, this ordinance shall take full force and effect from and after its earliest date after passage.
- (b) All previous Ordinances and Resolutions of Council which are in conflict with this Ordinance are, upon the effective date of this Ordinance, hereby repealed.

Passed this 12th day of September 2023.

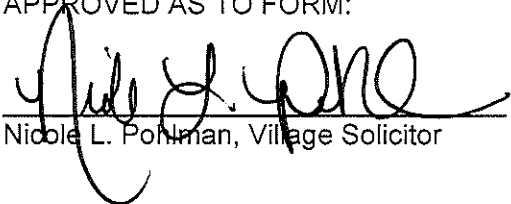

Jerry L. Boolman, Council President Pro Tem


Bonnie L. Millard, Mayor

ATTEST:


Karen L. Deao, Fiscal Officer

APPROVED AS TO FORM:



Nicole L. Pohlman, Village Solicitor

1st Reading: 8/8/23
2nd Reading: 8/29/23
3rd Reading: 9/12/23
Three Reading Rule Waived:
Emergency Declared: