

ORDINANCE NO. 07-03

ANIMAL CONTROL ORDINANCE

AN ORDINANCE TO PROHIBIT THE RUNNING AT LARGE OF ANIMALS IN THE STREETS, ALLEYS, PARKS, AND OTHER PUBLIC AND PRIVATE PROPERTY IN THE VILLAGE; TO PROHIBIT ANIMAL NOISES, BARKING HOWLING, AND YELPING; TO PROHIBIT OR LIMIT OWNERSHIP OF CERTAIN ANIMALS IN THE VILLAGE OF LAKEVIEW; TO PROVIDE REQUIREMENTS TO MAINTAIN SANITARY CONDITIONS; TO PROVIDE FOR SEIZURE AND IMPOUNDMENT OF CERTAIN ANIMALS; TO PROVIDE REQUIREMENTS FOR DANGEROUS OR VICIOUS ANIMALS TO PROVIDE PENALTIES FOR THE VIOLATIONS THEREOF.

AUTHORITY OF ORDINANCE: Michigan Public Act 339 of 1919

THE VILLAGE OF LAKEVIEW ORDAINS:

SECTION 1. Definitions.

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

- a. *At large* means off the premises of property of the owner while not on a leash, not under the physical control of the owner and not confined within a vehicle.
- b. *Dog* means any dog or doglike creature, such as a wolf, fox etc., when domesticated, whether male, female or unsexed.
- c. *Enclosure* means any structure, fenced or otherwise, which is secure on all sides, top and bottom, so as to prevent the exiting of the animal or entrance of young children.
- d. *Domestic animal (animal)* means animals commonly classified as pets, including dogs, cats, livestock, poultry and any animal other than man.
- e. *Law enforcement officer* means the state police, county sheriff or deputies, county animal control personnel, village police or any person designated as an ordinance enforcement officer for the purpose of enforcing this ordinance and also means the village police.
- f. *Livestock* mean horses, stallions, colts, geldings, mares, sheep, rams, bull, bullocks, steers, heifers, cows, calves, mules, jacks, jennets, burros, goats, kids, and swine, and deer or fur bearing animals being raised in captivity.
- g. *Owner* means, when applied to the proprietorship of any animal, every person having a right of property in the animal and every person who permits the animal to remain on or about any premises occupied by him or her.
- h. *Poultry* means all domestic fowl, ornamental birds (e.g., peacock) and game birds possessed or being reared.

i. *Wild animal* means any live monkey or other primate, raccoon, skunk, fox, snake or other reptile, leopard, panther, tiger, lion, lynx, wolf, part-wolf, coyote or other animal or any bird of prey, which can normally be found in the wild state.

J. *Reasonable control* means with a secure leash of suitable strength and length, in the hands of one able to restrain or move the animal if necessary, so as to enable the attendant to bring the animal to the attendant's side; in addition, an enclosed vehicle or container or the owners occupied property shall be deemed reasonable control.

k. *Unconfined* means any animal being outside of a building, fence or enclosure of its owner.

l. *Unrestricted* means any animal off the premises owned or occupied by the animals' owner, unless the animal is properly enclosed in an automobile or shipping container.

SECTION 2. Enforcement of ordinance.

The village manager is authorized to and shall designate the persons to enforce the terms and provisions of this ordinance, and the persons designated by the village manager shall have the power and authority to enforce the terms and provisions of this ordinance.

SECTION 3. Interfering with enforcing officer.

No person shall hinder, obstruct or delay the enforcing officer or any person that is engaged in lawfully taking into custody any animal found running at large, unconfined, and unrestricted or being possessed or housed by any person contrary to the provisions of this ordinance.

SECTION 4. License required.

It shall be unlawful for any person to own, possess or harbor any dog in the village unless a valid county dog license has been obtained for the dog and all licensing requirements and procedures of the county have been complied with, including but not limited to, the wearing by the dog, of the required county dog license.

SECTION 5. Keeping of certain animals prohibited.

Except as otherwise provided in the zoning ordinance and except as provided for horses, donkeys and mules associated with a horse carriage ride as authorized by the village, it is unlawful for any person to keep, breed, or possess any of the following within the village:

- a. Any, game animal or wild animal.
- b. Any horse, mule, donkey, cow, cattle, sheep, hog, pig, chicken, geese, or other livestock.
Cross Reference Ordinance 94-10, Section 11.08 (6)
- c. Any exotic, non-domestic, wild or dangerous animal, which includes, but is not limited to, any tiger, cougar, bear, poisonous snake, alligator, crocodile, coyote, wolf, or lion.

The prohibitions of this section shall not apply to any temporary carnival, circus, or similar event which complies with all ordinances and laws of the village, Montcalm County, State of Michigan and has any applicable license of approval from the village of the event.

SECTION 6. Keeping restricted.

No person shall keep or house any animal within the village, except dogs, cats, birds or other animals commonly classified as pets. No person shall keep an animal in the village that is not of a domesticated species. No more than three (3) adult dogs and/or cats in combination shall be kept or housed in one (1) residential unit in any residential zone. Cross Reference 94-10 Section 11-08 (6), 11.18

SECTION 7. Running at large.

No person shall permit any animal to run or be at large, unrestricted in the public streets, lanes, alleys, vacant lots, or other open or public places; nor upon any private premises other than the premises of the owner or custodian of such animal, without the consent of the owner or occupant of such private premises; provided, however, that any such domestic animal may be permitted on public properties if in the immediate and reasonable control of a competent person and in full compliance with the other provisions of this ordinance. The prohibitions of this ordinance shall not apply to any horse carriage ride which is lawfully operating within the village. Cross Reference Ordinance 9 (6)

SECTION 8. Dangerous dog(s).

- a. No person shall own or harbor a dangerous dog in the village.
- b. Any dog found to be dangerous in the village shall be destroyed unless otherwise disposed of by the owner.
- c. A dangerous dog is defined as any dog which is afflicted with rabies, or any dog which is capable of inflicting death or serious injury on a person or domesticated animal and which:
 1. Has, without warning provocation, attacked or bitten a person engaged in lawful activities;
 2. Has left the property of its owner unrestricted and, without provocation, killed or seriously injured another animal;
 3. Has, when unconfined, and/or unrestricted, without provocation, chased, confronted or approached a person on the street, sidewalk or other public property in a menacing fashion such as would put a reasonable prudent person in fear of attack.
 4. Has exhibited a propensity, tendency or disposition to attack, to cause injury or threaten the safety of persons or other domesticated animals without provocation; or
 5. Has acted in a manner that causes or should cause its owner to know that it is potentially vicious and/or dangerous.

d. If the enforcement officer believes that a person owns or harbors a dangerous dog, the enforcement officer shall forward and/or deliver to the dog owner's premises a written notice informing the owner that the enforcement officer has determined the dog to be dangerous and further advising the owner that the dog must be removed from the village or destroyed within 72 hours from the delivery to the owner's premises of the written determination, excluding Saturdays, Sundays and holidays.

e. If the owner of a dangerous dog fails to remove the dog from the village or destroy the dog within 72 hours from the delivery to the owner's premises of the enforcement officer's written determination that the dog is dangerous, the enforcement officer in addition to the issuing of an appearance citation for violation of ordinance 07-03, proceed to the prosecuting attorney and request a district court magistrate or district court to issue a summons to show cause why a dog should not be removed from the village or euthanized, upon a sworn complaint that any of the following exist.

1. A dog, licensed or unlicensed, has destroyed property or habitually causes damage by trespassing on the property or a person who is not the owner.
2. A dog, licensed or unlicensed, has attacked or bitten a person or animal.
3. A dog has shown vicious habits or has molested a person when lawfully on the public highway.
4. A dog duly licensed and wearing a license tag has run at large contrary to this ordinance.

f. After a hearing the district court magistrate or the district may either order the dog killed, or confined on the premises of the owner. Costs as in a civil case shall be taxed against the owner of the dog, and collected by the county. Cross Reference Public Act 339 of 1919.

SECTION 9. Seizure and impoundment.

a. Any dog, cat, or animal found at large in the village in violation of this ordinance may be seized and impounded by any village employee or any law enforcement officer.

b. All animals picked up or otherwise coming within control of an enforcing officer because of a violation of this ordinance shall be impounded with the county animal control agency and held for such a length of time as required by the county animal control agency.

SECTION 10. Authority to destroy.

a. *Dogs.* A law enforcement officer may destroy any dog that he/she sees in the act of pursuing, worrying or wounding any livestock, or poultry, or attacking persons, and there shall be no liability on such officer, in danger or otherwise, for such killing.

b. *Dangerous animals.* Any law enforcement officer is authorized to destroy any dangerous animal of any kind when it is necessary for the protection of any person.

SECTION 11. Cruelty.

- a. No person shall cruelly treat any animal in the village in any way.
- b. Any person who inhumanely beats, underfeeds or abandons any animal shall be deemed guilty of a violation of this ordinance.

SECTION 12. Care guidelines.

- a. Housing facilities for animals shall be structurally sound and maintained in good repair to protect the animals from injury, to protect the animals from the elements, to contain the animals and restrict the entrance of other animals.
- b. All animals shall be supplied with sufficient, good, wholesome food and water as often as the feeding habits of the respective animals require.
- c. All animals and animal buildings or enclosures shall be maintained in a clean and sanitary condition.
- d. No animal shall be without attention more than 24 consecutive hours.
- e. Every reasonable precaution shall be used to ensure that animals are not teased, abused, mistreated, annoyed, tormented or in any manner made to suffer by any person or means.
- f. No condition shall be maintained or permitted that is or could be injurious to the animals.
- g. All reasonable precautions shall be taken to protect the public from the animals and animals from the public.
- h. No person shall confine an animal on a chain for more than four hours unless the chain permits movement over at least 30 square feet and allows the animals free access to suitable shelter.
- i. Electronic/buried fence is an electronic fence and collar that controls the movement of a dog by emitting a electrical shock when the animal wearing the collars nears the boundary of the property, and may be considered a suitable fence as long as the dog(s) confined by an electric fence and collar, shall not be any near the ten (10) feet away from any public sidewalk, street right-of-way or property line that is contiguous to the neighboring property. In addition, it is recommended that dogs not be confined by electronic fence and collar in the front yard. The electronic fence is not an acceptable restraint for dogs in heat or who are potentially dangerous or have been found to be dangers by the enforcement officer. The fence and collar must be operational and in use at all times when no other restraint(s) are being used to control the actions of the dog. Owners with a front yard electronic fence must monitor the dog while in the front yard and unrestrained by other means.

SECTION 13. Housing location.

a. Any person owning, possessing or harboring a dog shall not permit the dog to be confined or restrained in any manner or anywhere on a lot or parcel except within the rear yard as the same is defined in the village zoning ordinance, in an area set back for a distance of at least ten (10) feet from any lot line. No outdoor housing including, but not limited to doghouses, shelters, enclosures and fenced dog run areas shall be located on a lot or parcel unless located within the rear yard.

b. Exception:

1. The rear yard location and set back requirements may not be obtainable on every premise. Owner may request a variance, from the enforcement officer, to SECTION 13. a., but only when requirements cannot be met. Convenience of location is not an acceptable reason for a variance request. The enforcement officer may make a determination to approve the alternate location and in so doing is also authorized to attach conditions to the housing location variance.

c. In no case will housing the animal be allowed in the front yard.

SECTION 14. Unclean and unwholesome housing, owner and occupants responsible for premises being kept clean.

a. No person shall cause or allow any place where any animal is or may be kept to become unclean or unwholesome to an extent that it becomes a health problem or nuisance to abutting residence. Cross Reference Ordinance 94-10, Section 11.06.

b. All persons who own, manager, lease, rent or occupy any premises whatsoever shall be equally responsible for keeping such premises in a clean and habitable condition and shall take all necessary precautions to prevent any nuisances as declared in this section, or other conditions detrimental to public health from arising thereon, and particularly to take all reasonable precautions to prevent rodents, vermin, and flies from being attracted thereto or existing thereof.

SECTION 15. Sanitary conditions maintained, disposal of feces and solid waste.

a. It shall be unlawful for any person owning or responsible for an animal to fail to immediately collect and properly dispose of all such fecal matter from any public property (e.g., parks, cemeteries, streets, sidewalks, etc.) or from the property of another, that such animal has deposited there.

b. The premises, yard, building, enclosures and exercise animals runs shall be kept free of animal feces, uneaten food and maintained in a sanitary manner as not to be a nuisance because of odor or attraction for flies and vermin. Cross Reference Ordinance 94-10, Section 11.06.

SECTION 16. Confinement in public.

No animal shall be permitted at any time to be on a highway, in a public park, in a public building or in any other public place, except when held securely on a leash of suitable strength and length by the owner thereof or other responsible person or when confined in a shipping receptacle or

closed automobile; however, animals shall not be confined in a closed automobile when the owner knows or should know that the temperature in the car will exceed normally tolerable conditions.

SECTION 17. Confinement and testing of dogs or other animals that have bitten humans.

- a. No owner shall at any time allow any licensed or unlicensed dog, cat or other animal to attack, molest, or bite a person or any other animal.
- b. Owner will immediately notify law enforcement whenever a dog, cat or other animal attacks, molests or bites a person or animal.
- c. Any dog or other animal that has bitten a person shall be held in confinement as required by the county animal control agency.

SECTION 18. Destruction of property, trespass liability.

No owner or owner's agent shall at any time allow any licensed or unlicensed dog, cat or other animal to destroy property or habitually trespass in a damaging way. The owner shall be liable for any damage transgressed.

SECTION 19. Disturbing the peace and quiet.

- a. No owner shall permit a dog, cat or other animal to disturb the peace and quiet of the neighborhood by barking or making other loud or unusual noises. Prolonged barking, howling, yowling or yelping or other loud unusual noises for a period of 10 minutes or longer shall be deemed a violation of this ordinance. Cross Reference Ordinance 9, (6)
- b. No owner shall allow any animal to constitute or cause a hazard or be a menace to the health, peace or safety of the village.

SECTION 20. Kennels generally.

- a. It shall be unlawful to operate a dog kennel in the village without having obtained a kennel zoning permit from the village manager and a license from the county animal control agency.
- b. Any person owning, harboring or keeping for pleasure of profit four or more dogs shall be deemed to operate a dog kennel.
- c. The village clerk shall, upon application, issue such kennel license upon payment of a fee established by the village council, and such fee is to be reviewed and adjusted from time to time as deemed appropriate by the village council.
- d. No kennel shall be permitted within 100 feet of any residential district within the village.
- e. Before the kennel license is issued, the village manager or representative shall inspect the premises to ensure the place proposed for the kennel is suitable and may be kept without the probability of its becoming a public or neighborhood nuisance.

SECTION 21. Kennel Maintenance.

a. No person shall operate a kennel without keeping the kennel in a clean sanitary condition at all times.

b. No dog kennel shall be permitted in cases where the dogs kept at such kennel are loud, frequently or habitually bark, yelp, or howl so as to cause annoyance to the neighborhood or the general public. The zoning for any dog kennel that permits such kennel to become a nuisance by reason of unsanitary conditions or noise may be suspended or revoked by the village manager. The village manager will report the violation(s) to the county animal control agency.

SECTION 22. Penalties and Enforcement

Any person, firm, corporation, trust, partnership or other legal entity which violates or refuses to comply with any provision of this Ordinance shall be responsible for a municipal civil infraction and shall be punished by a civil fine of fifty dollars (\$50.00) for a first violation, one hundred and fifty dollars (\$150.00) for a second violation and five hundred (\$500) for a third or any subsequent violation and shall be liable for the payment of the costs of prosecution in an amount of not less than nine dollars (\$9.00) and not more than five hundred dollars (\$500.00)

a. Each day that a violation continues to exist shall constitute a distinct and separate offense, and shall make the violator liable for the imposition of a fine for each day.

b. The foregoing penalties shall be in addition to the abatement of the violating condition and injunctive or other relief prescribed by the laws of the State of Michigan for the abatement of a public nuisance or the violation of a Village ordinance designated as a municipal civil infraction.

SECTION 23. Severability

The provisions of this Ordinance are hereby declared to be severable and if any clause, sentence, word, section or provision is declared void or unenforceable by a court of competent jurisdiction, it shall not affect any portion of this Ordinance other than said part or portion thereof.

SECTION 24. Repeal

All ordinances or parts of ordinances in conflict with this ordinance are hereby repealed, except that this Ordinance shall not be construed to repeal any provision in the Village Zoning Ordinance.

SECTION 25. Effective Date

The Ordinance shall take effect 20 days following its publication (or a summary thereof) after adoption.

The above Ordinance was offered for adoption by Village Council Member Lobert, and was seconded by Village Council Member Schottle, the vote being as follows:

YEAS: Winter, Earhart, Farrell, Lobert, Lund, Collard and Schottle

NAYS: None

ABSENT: None

ORDINANCE NO. 07-03 DECLARED ADOPTED.

Ed Winter, President

Wally Delamater, Clerk

CERTIFICATION

I hereby certify that the above Ordinance was adopted by the Council of the Village of Lakeview at a regular meeting held at the Village offices on April 9, 2007, pursuant to the required statutory notice and procedures.

Wally Delamater, Clerk

Adopted April 9, 2007

Published April 12, 2007

Effective May 2, 2007

06950 (004) 330321.01