

LIMITED HOME RULE RESOLUTION 001-2021

*Enacting a Home Rule Resolution
Regulating Nuisance, Dangerous and Vicious Dogs*

Cuyahoga County, Ohio

Be It Resolved by the Township Trustees of Olmsted Township

WHEREAS, this date, April 28, 2021, Trustee Zver moved the adoption of the following Limited Home Rule Resolution:

WHEREAS, by resolution approved by the Board of Trustees on December 4, 2019 (No. 185-2019), the Board adopted a limited home rule government for Olmsted Township, and;

WHEREAS, pursuant to R.C. 504.01, limited home rule government for the Township became effective January 3, 2020, and;

WHEREAS, R.C. 504.4 empowers Olmsted Township to “[e]xercise all powers of local self-government within the unincorporated area of the township, other than powers that are in conflict with general laws” and “[a]dopt and enforce within the unincorporated area of the township local police, sanitary, and other similar regulations that are not in conflict with general laws or otherwise prohibited by division (B)” of R.C. 504.4, and;

WHEREAS, it is the intent of the Board to provide for regulations governing the location, keeping and harboring of nuisance, dangerous and vicious dogs, as necessary for the general health, safety and welfare of the general public, and;

WHEREAS, the Board of Trustees finds it necessary and reasonable to provide for regulations governing nuisance, dangerous and vicious dogs within the Township, as necessary for the general health, safety and welfare of the public.

NOW THEREFORE, it is hereby RESOLVED by the Board that:

SECTION A. DEFINITIONS

1.

a. “Dangerous Dog” means a dog that, without provocation, and subject to division (A)(1)(b) of this section, has: caused injury, other than killing or serious injury, to any person; has killed another dog; or has been the subject of a third or subsequent violation of R.C. 955.22(C). R.C. 955.11(A)(1).

b. “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.

2.

a. "Vicious Dog" means a dog that, without provocation, and subject to division (A)(2)(b) of this section, has killed or caused serious injury to any person.

b. "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; (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.

3. "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.

4. "Nuisance Dog" means "nuisance dog" means a 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. "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. R.C. 955.11(A)(3).

5. "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. R.C. 955.11(A)(2).

6. "Serious injury" means: (a) Any physical harm that carries a substantial risk of death; (b) Any physical harm that involves a permanent incapacity, whether partial or total, or a temporary, substantial incapacity; (c) Any physical harm that involves a permanent disfigurement or a temporary, serious disfigurement; (d) Any physical harm that involves acute pain of a duration that results in substantial suffering or any degree of prolonged or intractable pain.

7. "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. R.C. 955.11(A)(4).

8. "Assistance Dog," "Guide Dog," "Hearing Dog," and "Service Dog" shall each have the same meanings as set forth in R.C. 955.011(B).

SECTION B. REQUIREMENTS AND OFFENSES

1. Except when a Nuisance Dog, Dangerous Dog or Vicious Dog is lawfully engaged in hunting or training for the purpose of hunting and is accompanied by the owner, keeper, harbinger or handler of the dog, no owner, keeper or harbinger of a Nuisance Dog, Dangerous Dog or Vicious Dog shall fail to do either of the following: (a) While that dog is on the premises of the owner, keeper or harbinger, securely confine it at all times in a locked pen which has a top and concrete floor, locked fenced yard, or other locked enclosure which has a top and constructed in a manner

to prevent the dog from escaping under the fence or enclosure, except that a Nuisance Dog or Dangerous Dog may, in the alternative, be tied with a chain-link leash or tether of sufficient strength so that the dog is adequately restrained; (b) While that dog is off the premises of the owner, keeper or harbinger, keep that dog on a chain-link leash or tether of adequate strength that is not more than six feet in length and additionally do at least one of the following: (i) Keep that dog in a locked pen that has a top, concrete floor, locked fence yard, or other locked enclosure that has a top; (ii) 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; (iii) Muzzle that dog.

2. The owner, keeper or harbinger of a Vicious Dog shall give written notice that such dog is located on his property to all adjacent and contiguous property owners and/or residents and shall register the dog with the township administrator during business hours with proof of dog license, rabies inoculation, and liability insurance as provided below.

3. No owner, keeper or harbinger of a Vicious Dog shall fail to obtain 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 Dollars because of damage or bodily injury to or death of a person caused by the Vicious Dog.

4.

a. Before a veterinarian debarks or surgically silences a dog, the veterinarian may give the owner of the dog a written waiver form that attests that the dog is not a Dangerous or Vicious Dog. The written waiver form shall include all of the following: (i) the veterinarian's license number and current business address; (ii) the number of the license of the dog if the dog is licensed; (iii) a reasonable description of the age, coloring, and gender of the dog as well as any notable markings on the dog; (iv) the signature of the owner of the dog attesting that the owner's dog is not a Dangerous or Vicious Dog; (v) a statement that division (G) of Section 955.22 of the Ohio Revised Code prohibits any person from doing any of the following: (1) debarking or surgically silencing a dog that the person knows or has reason to believe is a Dangerous or Vicious Dog; (2) possessing a Dangerous or Vicious dog if the person knows or has reason to believe that the dog has been debarked or surgically silenced; (3) falsely attesting on a waiver form provided by the veterinarian under division (G) of Section 955.22 Ohio Revised Code that the person's dog is not a Dangerous or Vicious Dog or otherwise provide false information on the written waiver form.

b. It is an affirmative defense to a charge of a violation of this section that the veterinarian who is charged with the violation obtained, prior to debarking or surgically silencing the dog, a written waiver form that complies with this Resolution and R.C. 955.22(G).

c. No person shall do any of the following: debark or surgically silence a dog that the person knows or has reason to believe is a Dangerous or Vicious Dog; possess a Dangerous or Vicious dog if the person knows or has reason to believe that the dog has been debarked or surgically silenced; falsely attest on a waiver form provided by the veterinarian that the person's dog is not a Dangerous or Vicious dog or otherwise provide false information on that written waiver form.

SECTION C: EXEMPTIONS

This Resolution does not apply to: (1) the owner or person in charge of a dog that is assisting a blind, deaf or handicapped person and such person either is unaware that the dog's activities are in violation of this Resolution or is unable to comply with this Resolution, except for a Dangerous or Vicious Dog, in which case this Resolution shall fully apply; (2) law enforcement personnel in charge of a dog that is assisting such personnel in the performance of official duties; (3) a dog lawfully engaged in hunting or legitimate training for the purpose of hunting while accompanied by and under the control of a licensed hunter; (4) veterinary clinics other than the requirement of adequately and securely containing said animals within the clinic premises.

SECTION D: ENFORCEMENT

The requirements and prohibitions of this Resolution may be enforced only upon: (1) complaint by a law enforcement officer who has personally observed facts reasonably supporting a charge alleging a violation; or (2) a written complaint by any person filed with the Olmsted Township Police Department setting forth facts, upon personal knowledge, sufficient to reasonably support a charge alleging a violation.

SECTION E. PENALTIES

A violation of Section B of this Resolution shall constitute an unclassified civil misdemeanor punishable by a civil fine as follows:

1. First Offense - \$25.00
2. Second Offense - \$75.00
3. Third Offense - \$100.00
4. Fourth and Subsequent Offenses - \$250.00

Each day of continued violation constitutes a separate offense.

Further, a violation of Section B of this Resolution may constitute a misdemeanor punishable by imprisonment of not more than thirty (30) days and/or fine as follows:

1. First Offense - \$25.00
2. Second Offense - \$75.00
3. Third Offense - \$100.00
4. Fourth and Subsequent Offenses - \$250.00

Each day of continued violation constitutes a separate offense. (R.C. 955.99(K)).

In addition, the Court in its discretion may order the offender to personally supervise the dog that the offender owns, keeps or harbors, to cause the dog to complete obedience training, or do both; or in the alternate order the Dangerous Dog or Vicious Dog to be humanely destroyed by a licensed veterinarian, the county dog warden, or the county humane society.

SECTION F. ADOPTION

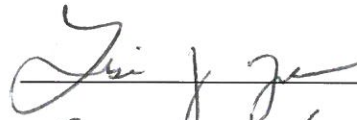
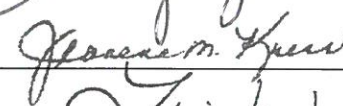
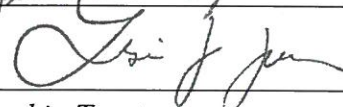
1. Upon majority vote, the Board hereby dispenses with the requirement that this Resolution be read on two separate days, pursuant to R.C. 504.10, and authorizes the passage of this Resolution upon its first reading.

2. The Fiscal Officer shall cause a succinct summary of this Resolution to be published in a newspaper of general circulation within the Township once a week for two consecutive weeks. The publication shall contain notice that the complete text of the resolution may be obtained or viewed at the office of the Township Fiscal Officer.

Trustee Kress seconded the Motion, and thereupon, the votes in favor of this Resolution were recorded and reflected by the signatures hereto.

BE IT FURTHER RESOLVED: that it is hereby found and determined that all formal actions of this Board of Township Trustees concerning and relating to the adoption of this Resolution were adopted in an open meeting of this Board, and that all deliberations of this Board and any of its committees that resulted in such formal action, were in a meeting open to the public, in compliance with all legal requirements, including Section 121.22 of the Ohio Revised Code.

Adopted the 28th day of April, 2021.




Township Trustees

Attest: Brian W. Libbette
Township Fiscal Officer

28th

28th

28th

28th

28th