

ORDINANCE NO. 2016 - 03

AN ORDINANCE AMENDING CHAPTER 505 OF THE CODIFIED ORDINANCES TO ENACT RESTRICTIONS ON DOGS DESIGNATED AS A "LEVEL-ONE THREAT," AND DECLARING AN EMERGENCY

BE IT ORDAINED BY THE COUNCIL OF THE VILLAGE OF NEW LONDON, HURON COUNTY, OHIO, AS FOLLOWS

Section 1. That Section 505.001, of the Codified Ordinances of the Village of New London, as it heretofore existed, be, and hereby it is amended to read as follows:

505.001 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 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.~~
- (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.~~
- (de) "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.
- (ef) (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 harbinger of the dog.
- (fg) "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. That there is hereby enacted a new Section 505.141, of the Codified Ordinances of the Village of New London, which shall read as follows:

505.141 LEVEL-ONE THREAT DOGS

(a) As used in this Section, unless otherwise specifically provided herein:

- (1) "Level-One Threat" dog means a dog that, without provocation, has chased or approached a person, including a person on a bicycle, upon the streets, sidewalks or any public or private property (other than the property of the dog's owner, keeper, or harbinger) 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 harbinger, 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.

A Level-One Threat 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 law enforcement officers in the performance of their official duties.

Notwithstanding the definition of a Level-One Threat dog, no dog may be declared a threat to public safety if:

- (A) An injury or damage is sustained by a person who: at the time such injury or damage was sustained, was committing a willful trespass or other tort upon premises occupied by the owner or keeper of the dog, or was teasing, tormenting, abusing or assaulting the dog or was committing or attempting to commit a crime;
- (B) An injury or damage was sustained by a domestic animal which at the time such injury or damage was sustained was teasing, tormenting, abusing or assaulting the dog or was trespassing upon premises occupied by the owner or keeper of the dog; or

- (C) The dog was protecting or defending a human being or domestic animal within the immediate vicinity of the dog from an unjustified attack or assault.
- (2) "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.
- (3) "Owner" means any person, firm, corporation, organization, or department possessing, harboring, keeping, having an interest in, or having control or custody of an animal.
- (4) "Police dog" means a dog that has been trained, certified and/or approved by the state and may be used, to assist one (1) or more law enforcement officers in the performance of their official duties.
- (5) "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.

(b) No owner, keeper or harborer of any Level-One threat dog shall fail to do either of the following, except when the dog is legally engaged in training for the purpose of hunting, accompanied by a licensed hunter or trainer for the purpose of hunting:

(1) While the dog is on the premises of the owner, keeper, harborer or handler, it must be securely confined indoors, or in a locked pen which has a top, the dimensions of which should be at least five (5) feet by ten (10) feet, and must have secure sides and a secure top. If such structure should have no bottom secured to the sides, the sides must be imbedded into the ground no less than two (2) feet. Either such structure must be suitable to prevent the entry of young children and designed to prevent the dog from escaping, or the dog must be in a locked fenced yard which fence is at least six (6) feet high. Any enclosure must provide protection from the elements for the dog.

(2) While the dog is off the premises of the owner, keeper or harborer, the dog must have a substantial collar and leash or tether not exceeding six (6) feet in length and, additionally, the owner, keeper, or harborer shall do the following:

(A) Keep the dog in a locked pen which has a top, or in a locked fenced yard of at least six (6) feet high, or other locked enclosure which has a top; or

(B)(i) Have the dog on a leash or tether controlled by a person who is at least eighteen (18) years of age 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 person in close enough proximity to the dog so as to prevent it from causing injury to any person; and

(ii) Muzzle the dog. The muzzle must be made in a manner that will not cause injury to the dog or interfere with its vision or respiration but must prevent it from biting any person or animal.

(c) No owner, keeper or harborer of a Level-One Threat dog shall permit that dog to be unmuzzled at anytime while on a public street, highway, sidewalk, park, building, or other public place, or while on private property unless caged or leashed in a manner to assure the dog may not physically reach any public space including a sidewalk.

(d) A dog declared to be a Level-One Threat shall, at the expense of such owner, keeper, or harborer, be tattooed or microchipped to secure positive identification.

(e) All owners, keepers or harborers of Level-One Threat dogs shall obtain and maintain in force a policy of 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 (\$100,000.00) because of damage or bodily injury to or death of a person caused by the Level-One Threat dog, proof of which shall at all times be on file with the Chief of Police.

(f) All owners, keepers or harborers of any Level-One Threat dogs shall have posted and displayed at each possible entrance onto the premises where that dog is kept a conspicuous sign, clearly legible, and easily readable by the public, warning that there is a Level-One Threat dog on the premises. Such sign shall be at least eight (8) inches by ten (10) inches in rectangular dimensions and shall bear lettering not less than two (2) inches in height. Such sign should also include a visual symbol for any children or people who cannot read words.

(g) The owner of any level-one threat dog shall notify the Chief of Police within twenty-four (24) hours if that dog is on the loose, is unconfined, has attacked another animal, has attacked any person, has died, or if transfer of ownership or possession of the dog has occurred.

(h) The Chief of Police may designate a dog as a Level-One Threat. The owner, keeper, or harborer shall receive written notice that the dog has been designated a Level-One Threat. The written notice shall specify the appeal rights of the owner, keeper, or harborer of the designated dog.

(1) An owner, keeper, or harborer of a dog designated a Level-One Threat has ten (10) days from the date listed on the written notice of such designation to inform the Chief of Police in writing that a hearing date is requested.

(2) Such appeals shall be heard by the Mayor or his or her designee. The Mayor will schedule the hearing and notify the party requesting the hearing in writing of the time, date, and location of the hearing.

(3) At the hearing, the Chief of Police must show, by a preponderance of the evidence, that the designated dog is a Level-One Threat.

(4) Following the hearing, if the Mayor finds the dog a Level-One Threat dog, the owner, keeper, or harborer shall be on notice that the dog must be kept under the restrictions specified in this Section. If the Mayor finds the dog is not a Level-One Threat dog, the Mayor shall grant the appeal.

(5) Any person subject to an adverse decision of the Mayor may appeal that decision to the Village Council. The notice of appeal shall be in writing and shall be filed with the Fiscal Officer at any time; however, the filing of such notice shall not suspend that person's obligation to comply with this Section while the appeal is pending. At the hearing, the appellant shall have the burden of proving to the satisfaction of the Council one of the following:

(A) that the factual basis for designating the dog as a Level-One Threat is in error; or

(B) that the dog has been so classified for at least two (2) years without further incident; or

(C) that the owner, keeper or harborer has written certification of satisfactory completion of obedience training for the dog so classified, with the owner, keeper or harborer.

If the Council finds that the owner, keeper or harbinger of a dog meets any of these conditions, the restrictions for dogs classified as a Level-One Threat to public safety shall be rescinded.

(i) Whoever violates any provision of this Section 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.

Section 3. That this Ordinance is hereby declared to be an emergency measure necessary for the immediate preservation of the public peace, health, or safety, and for the welfare of the citizens of the Village, and for the further reason that it is necessary to that this measure become effective immediately in order to respond to perceived problems with dogs within the Village at the current time, and that, provided it receives the majority vote of two-thirds or more of those elected to Council, this Ordinance shall therefore take effect and be in force immediately from and after its passage and approval by the Mayor, and otherwise it shall take effect at the earliest period allowed by law.

PASSED: March 28, 2016


MAYOR

ATTEST:

Nancy Howell
FISCAL OFFICER