

02674

VILLAGE OF LOMBARD
REQUEST FOR BOARD OF TRUSTEES ACTION
For Inclusion on Board Agenda

Resolution or Ordinance (Blue) _____
 Recommendations of Board, Commissions & Committees (Green) _____
 Other Business (Pink) _____

TO: PRESIDENT AND BOARD OF TRUSTEES

FROM: William T. Lichter, Village Manager

DATE: November 5, 2007 (BOT) Date: November 15, 2007

TITLE: An Ordinance Amending Title IX, Chapter 90 of the Lombard Village Code in
Regard to Dangerous and Vicious Dogs

SUBMITTED BY: Ray Byrne, Chief of Police

BACKGROUND/POLICY IMPLICATIONS:

This ordinance will amend several provisions of Chapter 90 of the Village Code as it relates to dangerous and vicious dogs. These changes will strengthen the Village's ability to deal with owners of dangerous and vicious dogs.

FISCAL IMPACT/FUNDING SOURCE: None

Review (as necessary):
Finance Director X
Village Manager X

Date: 11/6/07

NOTE: All materials must be submitted to and approved by the Village Manager's office by 12:00 noon, Wednesday, prior to the Agenda Distribution.

I would respectfully request that you forward this ordinance to the Village Board for approval. If you should have any questions, or would like additional information, please do not hesitate to contact me.

The ordinance was prepared by Attorney George Wagner of Klein, Thorpe & Jenkins and has been reviewed by Ms. Pieczynski. Some notable changes include an expanded list of definitions, to include definitions for a dangerous or vicious animal, dangerous dog and vicious dog. The offense of "dog at large" becomes an absolute liability offense, negating the burden to prove that an owner "permitted" or "allowed" a dog to run free. Finally, the provisions for confinement, redemption and impound fees are much more specific and detailed.

At the suggestion of our Village prosecutor, Linda Pieczynski, the attached ordinance has been prepared to better equip the police department to handle situations where dangerous or vicious dogs are involved. The Village Code provisions that currently cover dangerous or vicious dogs are found in Title IX, Chapter 90. The current provisions are outdated and somewhat vague. This makes enforcement and prosecution of these cases difficult in court. While we do not handle a great deal of these cases, when they do occur they can be quite serious and the police department needs the appropriate enforcement avenues to be able to adequately protect the public.

SUBJECT: Ordinance Amending the Village Code in Regards to Dangerous and Vicious Dogs

FROM: Ray Byrne
Chief of Police

TO: William T. Lichter
Village Manager

DATE: November 5, 2007



LOMBARD POLICE DEPARTMENT



**AN ORDINANCE AMENDING TITLE IX, CHAPTER 90,
OF THE VILLAGE OF LOMBARD VILLAGE CODE IN REGARD TO
DANGEROUS AND VICIOUS DOGS**

ORDINANCE NO. _____

BE IT ORDAINED by the President and Board of Trustees of the Village of Lombard,

DuPage County, Illinois, as follows:

SECTION 1: That a new Section 90.01, entitled "Definitions," is inserted into Chapter

90 of Title IX, the remaining sections to be renumbered numerically, to be and read as follows:

90.01 Definitions

For purposes of this chapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

ANIMAL. Every living creature, domestic or wild, not including man.

ANIMAL CONTROL CENTER. A place designated by the Village Manager for the housing of animals in the temporary custody of the Village.

ANIMAL CONTROL OFFICER. A person performing duties prescribed by the Village Manager to effectuate this chapter.

ATTACK. Any aggressive, menacing or vicious physical contact between any dog and any person or other animal, including, but not limited to, contact of the mouth or teeth of a dog with the victim of the attack and any striking or scratching of the victim or an attack by the paws of any dog regardless of whether or not any such actions result in injuries of any kind sustained by a victim.

BITE. Seizing with the teeth or jaws so that the person or other animal seized has been nipped, gripped, cut, wounded or pierced, and further includes the contact of saliva with any break or abrasion of the skin.

CONFINEMENT STRUCTURE. A securely locked pen, kennel or other structure designed, constructed and maintained in accordance with the standards herein. Such pen, kennel or other structure must have secure sides and a secure top attached to the sides and must be locked with a key or combination lock while animals are within the structure. Such structure must have a secure bottom or floor attached to the sides, or the sides of the structure must be embedded in the ground no less than two feet (2'). All such structures must comply with all zoning and building regulations of the Village and be adequately lighted, ventilated and kept in a clean and sanitary condition.

DANGEROUS OR VICIOUS ANIMAL. Any animal, excluding a dog, which poses a danger or hazard to a human.

DOG. Except where specifically distinguished, includes all animals of the canine species of the age of four months or older.

DOG, DANGEROUS. Any dog which, while unmuzzled, approaches any person or other animal in a vicious or terrorizing manner displaying an apparent attitude of attack up any street, sidewalk or any public grounds or place, or any premises other than those of its owner, and which dog does not cause serious physical injury, provided, that such approach is unprovoked.

DOG, VICIOUS. Any dog which has, when unprovoked, bitten or attacked any person or other animal on public or private property; or has a known tendency, propensity or disposition to attack persons or animals without provocation; or has caused serious injury to a person or animal; or has been found to be a dangerous dog upon three (3) separate occasions in the Village; or has been declared a vicious dog as defined in the Illinois Animal Control Act, 510 Illinois Compiled Statutes 5/1 et seq., by a court of competent jurisdiction whereby an order was entered based upon that finding.

GUIDE DOG. A dog trained and used to aid the blind or hearing impaired; provided that the owner of any such dog complies with the provision contained in 510 Illinois Compiled Statutes 5/8.

INJURY, SERIOUS PHYSICAL. Any physical injury that creates a substantial risk of death or that causes death, serious disfigurement, protracted impairment of health, impairment of the function of any bodily organ, or plastic surgery.

INOCULATION. The injection, subcutaneously or in such other manner as may be approved by the Illinois Department of Agriculture pursuant to the Illinois Animal Control Act, 510 Illinois Compiled Statutes 5/1 et seq., of canine anti-rabic vaccine meeting standards approved by the Illinois Department of Agriculture and the United States Department of Agriculture.

K-9 DOG. A dog trained and used in the performance of official police duties authorized by the Chief of Police; provided that any such dog shall be currently inoculated against rabies as provided in 510 Illinois Compiled Statutes 5/8.

LEASH. A strap or chain, manufactured for use as a leash, securely fastened to the collar or harness of a dog, which shall in no case be longer than eight feet (8') and shall be of sufficient strength to keep such dog under control.

MATURE ANIMAL. A male or female animal, which has been weaned.

MUZZLE. A device constructed of strong, soft material or metal which will prevent a dog from biting any person or animal; provided that such muzzle must be made in a manner which will not cause injury to the dog or interfere with its vision or respiration.

NEUTERED ANIMAL. A male or female animal treated by a veterinarian to render it incapable of reproduction.

OWNER or KEEPER. Any person, who has a) a right of property in an animal; b) keeps an animal; c) has an animal in his care or custody; or d) who knowingly permits an animal to remain on or about any premises occupied by him.

RUN AT LARGE. To be free of restraint off the premises of the owner. Any dog not upon the premises of its owner or such other person having custody, possession or control over any such dog, which is not on a leash and under the control of a person physically able to control it, shall be deemed to be running at large.

VETERINARIAN. A veterinarian, duly licensed by the State of Illinois or any other state which, by law, licenses veterinarians.

VETERINARIAN HOSPITAL. Any place used for the treatment of animals, which is operated by a veterinarian and licensed by the State of Illinois.

SECTION 2: That Section 90.02, entitled "Dangerous animals at large," renumbered Section 90.03, shall be deleted and a new Section 90.03 inserted, to be and read as follows:

90.03 Animals At Large.

(A) It shall be unlawful for any person to permit any dangerous or vicious animal of any kind to run at large within the Village.

(B) It shall be unlawful for any dog to run at large.

(C) It shall be considered a separate offense of an owner to knowingly allow a dangerous or vicious dog to run at large, whereby said action results in injury to a person or animal.

SECTION 3: That Subsection A of Section 90.03, entitled "Keeping Certain Animals Prohibited," renumbered Section 90.04, shall be deleted and a new Subsection A inserted to be

and read as follows:

(A) Except as provided in Section 90.06 of this Chapter, it shall be unlawful for any person to keep any wild, dangerous, vicious animal, or animal listed in Section 90.05, in any place other than a properly maintained zoological park, circus, scientific or educational institution, research laboratory, veterinary hospital, or animal refuge.

SECTION 4: That a new Section 90.06, entitled "Dangerous, Vicious Dogs," is inserted into Chapter 90 of Title IX, the remaining sections to be renumbered numerically, to be and read

as follows:

(A) Nuisance Declared: Each vicious or dangerous dog is hereby declared to be a public nuisance. Vicious dogs shall be prohibited from the Village and dangerous dogs shall only be

kept, harbored, maintained, owed or possessed within the corporate limits of the Village in strict conformance with the provisions of this section.

(B) Report of Incidents; Investigation:

1. Any person or persons who witness an incident involving a bite, attempt to attack, or menacing behavior by any dog occurring in the Village shall file a sworn affidavit of complaint with the Police Department setting out the nature and date of the incident, a description of the dog, and, if known, the owner of the dog and the address of the owner.

2. The Police Department, upon receipt of an affidavit of complaint, shall investigate the complaint to determine whether the dog is dangerous or vicious. If the Police Department finds that the dog is dangerous or vicious, the owner shall be notified by certified mail of such finding. No dog shall be found dangerous or vicious if the attack or menacing behavior was directed at a person who was, at the time in question, committing a willful trespass or other tort upon the premises of the owner; or was teasing, tormenting, abusing or assaulting the dog; or has in the past teased, tormented abused or assaulted the dog; or was committing or attempting to commit a crime.

3. The owner of a dog found to be dangerous or vicious may, within seven (7) days of the mailing of notice by the Police Department, make a written request to the Police Department for a review of such finding. Such review shall be made by the Chief of Police within seven (7) days of such request and shall be based upon a preponderance of the evidence, including the sworn affidavit of complaint and any statements or evidence presented by the owner, witnesses to the incident, Police Department personnel or any other person possessing information relevant to such finding. The Chief of Police shall issue the written findings within five (5) days of receipt of the written request for review, sustaining or overturning the finding made by the Police Department, copies of which findings shall be served on, or sent to, the owner by certified mail.

4. If a dog is found to be vicious or upon three (3) findings that a dog is dangerous, said dog will be deemed to be a vicious dog, subject to all provision of Subsection (D) of this Section.

5. As provided under Section 15 of the Illinois Animal Control Act, 510 ILCS 5/15, a court of competent jurisdiction has authority to determine if a dog is dangerous or vicious and to enter a decree restraining the owner of a dangerous or vicious dog from maintaining such dog as a public nuisance, and further decree strict restrictions on the maintaining of a dangerous dog or the humane dispatch of a vicious dog.

(B) Dangerous Dogs:

1. Requirements and Prohibitions:

(2) The fee for redeeming any dog or cat which is confined and which has not been previously implanted with a micro-chip showing ownership, shall be \$50.00 for the first day of impoundment and \$10.00 for each day thereafter. The first day's charge shall include the impounding fee and the implant of a micro-chip which will show the name and address of the owner for ease in future identification. After implant, the owners of such dog shall receive a current year's dog tag at no cost and the fine for any ticket issued for a first offense of running at

(1) The fee for redeeming any dog or cat which has previously been implanted with a micro-chip showing ownership of the animal or for any other animal which is confined shall be \$25.00 for the first day and \$10.00 for each day thereafter.

(B) Fees for impoundment shall be as follows:

(A) The Chief of Police or his/her designee shall capture and cause to be confined in an animal control center any unlicensed dogs three (3) months of age or older; any dog found running at large; any abandoned animal; any dangerous or vicious animal that has acted in a threatening or terrorizing manner or has bitten or attempted to bite a person or animal; any dangerous or vicious dog; or any animal maintained in violation of this chapter.

90.11. Confinement and Redemption.

follows:

Section 90.11, shall be deleted in its entirety and a new Section 90.11 inserted, to be and read as **SECTION 5:** That Section 90.09, entitled "Confinement and Redemption," renumbered

(b) Exemptions: Notwithstanding any provisions of this Chapter to the contrary, K-9 and guide dogs shall be exempt from the provisions of this section.

(a) It shall be unlawful to keep, harbor, maintain, own or in any way possess within the corporate limits of the Village any vicious dog.

1. Requirements and Prohibitions:

(B) Vicious Dogs:

(b) It shall be unlawful for any dangerous dog to annoy, endanger or approach in an apparent attitude of attack, or cause injury to any person or animal.

(a) It shall be unlawful for any dangerous dog to leave the premises of the owner, unless such dog is securely muzzled, restrained on a leash not longer than six feet (6') in length and under the direct control and supervision of the owner; provided that, in no event shall such dog be under the direct control or supervision of any person under the age of eighteen (18) years of age.

90.15 Leash Requirements. It shall be unlawful for any person or persons owning, controlling, possessing or having the management or care, in whole or in part, of any dog to permit the same to run at large, unless such dog is securely tied by a leash, so as to effectively prevent such dog from biting, molesting, being with, or approaching any person or animal.

follows:

90.15, is hereby deleted in its entirety and a new Section 90.15 inserted therein, to be and read as

SECTION 8: That section 90.12, entitled "Leash Requirements," renumbered as Section

90.22 Metal Tags. The office of the Village Clerk shall provide each and every year such metal tags as may be necessary, or such size and shape as he or she shall deem expedient (the shape to be changed each year), having stamped thereon numbers indicating the year of which the tax is paid, and the letters "L.D.T.," and it shall be the duty of the Village Clerk to deliver one of such metallic plates to the person so paying a tax upon any such dog. Not metal tag shall be issued to the person paying the tax upon any dog unless the requirements of §90.19 have first been met.

to be and read as follows:

hereby amended to delete reference to section 90.19, and reference the revised section number,

SECTION 7: That section 90.11, entitled "Metal Tags," renumbered as Section 90.14, is

90.12 Vicious Animals: Impoundment And Where Incapable Of Impoundment. If any vicious animal, including a vicious dog, cannot be safely taken and impounded when necessary for the protection of any person or property, such animal may be slain by a police officer or person authorized by the Village; provided, however, that in all cases where any animal so slain has bitten any person or caused an abrasion to the skin of such person, no injury shall be done to the head of the animal and it shall be the duty of the person slaying the animal to immediately deliver the carcass to a veterinarian to prepare the head and brain for delivery to the DuPage County Animal Control Department.

sections to be renumbered numerically, to be and read as follows:

Where Incapable Of Impoundment," is inserted into Chapter 90 of Title IX, the remaining

SECTION 6: That a new Section 90.12, entitled "Vicious Animals: Impoundment And

Subsection (A) of this Section to be confined in such a manner as to remain under the control of the Chief of Police or his/her designee for a period of not less than two (2) days from the date of capture, unless redeemed by the animal's owner. Animals not redeemed by their owner at the end of two (2) days shall be transferred to the DuPage County Animal Control Department, where said animal shall be disposed of in accordance with the rules and regulations of that office.

large to a dog or cat owner shall be waived. As a condition of release, any redeemed dog, which is not inoculated against rabies, shall be inoculated by a veterinarian at the owner's expense.

number, said sentence to be and read as follows:

amended to delete reference to section 90.09 in the last sentence, and insert the revised section

SECTION 14: That section 90.47 entitled "Disseased Or Injured Animals", is hereby

Section 90.11 of this chapter.

Notice of removal and an opportunity to redeem the Animal shall be provided pursuant to

sentence to be and read as follows:

delete reference to section 90.09 in the last sentence, and insert the revised section number, said

SECTION 13: That section 90.43, entitled "Abandoned Animals," is hereby amended to

D. A "Wild Animal" is an Animal described or listed in Section 90.05 of this Chapter.

read as follows:

amended to delete reference to section 90.04, and insert the revised section number, to be and

SECTION 12: That Subsection D of Section 90.40, entitled "Definitions," is hereby

No dog shall be registered or licensed under §90.13 unless a certificate of a veterinarian certifying to the fact and date of inoculation of such dog shall be filed with or exhibited to the Village Clerk, showing inoculation to have been made.

follows:

Section 90.19, is hereby deleted and a new Section 90.19 inserted to be and read and read as

SECTION 11: That section 90.22, entitled "Licensing Requirements," renumbered as

remaining sections to be renumbered numerically.

SECTION 10: That section 90.20, entitled "Definitions," is hereby deleted, the

The confinement and redemption provisions of Sections 90.11 and 90.12 of this chapter shall be applicable to and followed by the Chief of Police or his/her designee upon taking any animal or towl into possession under this section.

and read as follows:

to Section 90.09 in the last sentence, and insert the revised Section number, said sentence to be

Declared A Nuisance," renumbered as Section 90.17, is hereby amended to delete the reference

SECTION 9: That Subsection B of Section 90.16, entitled "Loud Frequent Noises

Any apparently injured or severely diseased Animal not on the premises of, or under the control of its Owner, shall be removed, if possible, pursuant to Section 90.11 of this Chapter.

SECTION 15: That this Ordinance shall be in full force and effect from and after

its passage, approval and publication in pamphlet form as provided by law.

Passed on first reading this _____ day of _____, 2007.

First reading waived by action of the Board of Trustees this _____ day of _____, 2007.

_____, 2007.

Passed on second reading this _____ day of _____, 2007, pursuant to a roll call vote

as follows:

AYES:

NAYS:

ABSENT:

APPROVED by me this _____ day of _____, 2007.

ATTEST:

William J. Mueller, Village President

Brigitte O'Brien, Village Clerk

Published by me in pamphlet form this _____ day of _____, 2007.

Brigitte O'Brien, Village Clerk