

Home Rule Regulation Governing Dogs

**BOARDMAN TOWNSHIP TRUSTEES
HOME RULE RESOLUTION NO. 01-04**

**ENACTING AND CODIFYING A HOME RULE RESOLUTION FOR BOARDMAN TOWNSHIP
REGULATING DOG CONTROL, DANGEROUS AND VICIOUS DOGS, ENDANGERED SPECIES,
AND EXOTIC ANIMALS.**

The Board of Trustees of Boardman Township, Mahoning County, Ohio met in regular session at the Boardman Township Government Center on the 24th day of September, 2001 with the following members present: John C. Cox, Thomas P. Costello and Elaine R. Mancini.

Mr. Costello made a Motion to approve the Second Reading and Adoption of Home Rule Resolution No. 01-04:

WHEREAS, The Boardman Township Board of Trustees adopted a Limited Home Rule government in accordance with Ohio Revised Code Section 504.01(B) by Resolution duly adopted and approved October 12, 1999; and

WHEREAS, The Boardman Township constitutes an Urban Township with Limited Home Rule Authority as provided in Ohio Revised Code Section 504.01(B)1, vested with the powers, rights and immunities granted therein; and

WHEREAS, it is the desire of the Boardman Township Board of Trustees to provide for regulations governing dog control and the location, keeping and harboring of dangerous and vicious dogs, endangered species and exotic animals as necessary for the general health, safety and welfare of the general public;

NOW THEREFORE, BE IT RESOLVED, THAT THE FOLLOWING REGULATIONS BE AND HEREBY ARE ADOPTED AND APPROVED UPON FIRST AND SECOND READINGS, PUBLICATION AND CODIFICATION:

ARTICLE I. DOG CONTROL, DANGEROUS AND VICIOUS DOGS

SECTION 1: Definition

(A) As used in this section:

(1) (a) "Dangerous dog", means a dog, that without provocation, and subject to division (A)(1)(b) of this section, 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 that dog is off the premises of its owner, keeper, or harbinger and not under the reasonable control of its owner, keeper, 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.

(b) "Dangerous 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 one or more law enforcement officers in the performance of their official duties.

(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) "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.

(4) (a) "Vicious dog", means a dog that, without provocation, and subject to division (A)(4)(b) of this section meets any of the following:

(i) Has killed or caused serious injury to any person;

(ii) Has caused injury, other than killing or serious injury to any person, or has killed another dog.

(iii) Belongs to a breed that is commonly known as a pit bull dog. The ownership, keeping or harboring of such a breed of dog shall be prima facie evidence of the ownership, keeping or harboring of a vicious dog.

(b) "Vicious dog" does not include either of the following:

(i) A police dog that has killed or caused serious injury to any person, or that has caused injury, other than killing or 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.

(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) Upon the transfer of ownership of any dog, the seller of the dog shall give the buyer a transfer of ownership certificate that shall be signed by the seller. The certificate shall contain the registration number of the dog, the name of the seller, and a brief description of the dog. Blank forms of the certificate may be obtained from the county auditor. A transfer of ownership shall be recorded by the auditor upon presentation of a transfer of ownership certificate that is signed by the former owner and that is accompanied by a fee as prescribed by law.

(C) Prior to the transfer of ownership or possession of any dog, upon the buyer or other transferee's request, the seller or other transferor of the dog shall give to the person a written notice relative to the behavior and propensities of the dog.

(D) Within ten (10) days after the transfer of ownership or possession of any dog, if the seller or other transferor of the dog has knowledge that the dog is a dangerous or vicious dog, he shall give to the buyer or other transferee, the board of health for the district in which the buyer or transferee resides, and the dog warden of the county in which the buyer or other transferee resides, a completed copy of a written form on which the seller shall furnish the following information;

(1) The name and address of the buyer or other transferee of the dog;

(2) The age, sex, color, breed, and current registration number of the dog. In addition, the seller shall answer the following questions that shall be stated on the form as follows:

"Has the dog ever chased or attempted to attack or bite a person? If yes, describe the incident(s) in which the behavior occurred."

"Has the dog ever bitten a person? If yes, describe the incident(s) in which the behavior occurred."

"Has the dog ever seriously injured or killed a person? If yes, describe the incident(s) in which the behavior occurred."

The dog warden of the county in which the seller resides shall furnish the form to the seller at no cost according to ORC 955.11.

(E) No seller or other transferor of a dog shall fail to comply with the applicable requirements of divisions (B) to (D) of this section.

SECTION 2: Control and Restraint

(A) As used in this section, "**dangerous dog**" and "**vicious dog**" have the same meaning as in Section 1 of this resolution.

(B) No owner, keeper or harbinger of any female dog shall permit it to go beyond the premises of the owner, keeper or harbinger at any time the dog is in heat, unless the dog is properly in leash.

(C) Except when a dog is lawfully engaged in hunting and accompanied by the owner, keeper, harbinger, or handler of the dog, no owner, keeper, harbinger, or handler of any dog shall fail at any time to do either of the following;

(1) Keep the dog physically confined or restrained upon the premises of the owner, keeper, or harbinger, or property of another with their permission, by an adequate leash, tether, fence, supervision or secure enclosure to prevent escape;

(2) Keep the dog under reasonable control of some person.

(D) Except when a "**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 vicious dog shall fail to do either of the following:

(1) 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 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;

(2) 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:

a) Keep that dog in a locked pen that has a top, concrete floor, locked fence yard, or other locked enclosure that has a top;

b) 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;

c) Muzzle that dog.

(E) The owner, keeper or harbinger of a vicious dog or a dog commonly known as a pit bull 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 zoning inspector during business hours with proof of dog license, rabies inoculation, and liability insurance as provided below.

(F) 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. The owner, keeper or harbinger of a vicious breed of dog commonly known as a pit bull shall in addition to the One Hundred Thousand Dollar Liability Insurance shall obtain and maintain a One Million Dollar Umbrella Liability Insurance Policy. Proof of said insurance shall be made to the township zoning inspector upon his request.

(G) No person shall do any of the following:

- (1) Debark or surgically silence a dog that the person knows or has reason to believe is a vicious dog;
- (2) Possess a vicious dog if the person knows or has reason to believe that the dog has been debarked or surgically silenced;
- (3) Falsely attest on a waiver form provided by the veterinarian under division G of this section that the person's dog is not a vicious dog or otherwise provide false information on that written waiver form.

(H) 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 vicious dog. The written waiver form shall include all of the following;

- (1) The veterinarian's license number and current business address;
- (2) The number of the license of the dog if the dog is licensed;
- (3) A reasonable description of the age, coloring, and gender of the dog as well as any notable markings on the dog;
- (4) The signature of the owner of the dog attesting that the owner's dog is not a vicious dog;
- (5) A statement that division (F) of Section 955.22 of the Ohio Revised Code prohibits any person from doing any of the following:
 - (a) Debarking or surgically silencing a dog that the person knows or has reason to believe is a vicious dog;
 - (b) Possessing a vicious dog if the person knows or has reason to believe that the dog has been debarked or surgically silenced;
 - (c) 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 vicious dog or otherwise provide false information on the written waiver form.

(I) It is an affirmative defense to a charge of a violation of division (G) 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 division (H) of this section and asserts that the dog is not a vicious dog.

(J) It shall be prima facie evidence that a dog is not under the required control if such dog chases, injures, menaces or kills any person or domestic animal or commits any nuisance upon property other than of its owner, keeper or harbinger.

SECTION 3: Barking and Noisy Dogs

No person shall keep or harbor any dog which howls, yelps or barks or emits audible sounds which are unreasonably loud or disturbing and persistent in intensity and duration so as to disturb the peace and quiet of the neighborhood or to be detrimental to the life, health and safety of any individual. Such howling, yelping or barking shall be deemed a violation of this section if the howling, yelping or barking is audible outside the premises of the location of said dog and persists continually for a period of five (5) minutes or more between the hours of 8:00 PM to 8:00 AM and for a period of ten (10) minutes or more from 8:00 AM to 8:00 PM.

This section shall not apply to the incidental or intermittent howling, yelping or barking of a dog in response to the presence of a guest, trespasser or other animal in the presence of the dog; or to alert the owner of said dog to an impending threat or danger, or injury of the dog.

SECTION 4: Unsanitary Conditions

No person shall keep or harbor any dog in the Township so as to create noxious or offensive odors or unsanitary conditions which adversely impact the health, comfort or safety of the public.

SECTION 5: Damage to Property

(A) Any owner, keeper or harbinger of any dog that injures or damages public property or private property of one other than the owner, keeper or harbinger of the dog shall be strictly liable to the injured or damaged party.

(B) No owner, keeper or harbinger of any dog that defecates upon property of another shall fail to immediately remove any and all feces deposited by such dog from the property of another, including public parks or other public property. The owner of or person having charge of such dog shall immediately dispose of such feces in a sanitary manner.

SECTION 6: Prohibition of Certain Vicious Breeds

(A) The keeping and harboring of any cross or mix breed of a wolf and dog shall constitute a nuisance and threat to the health and safety of the general public and shall be prohibited.

SECTION 7: 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 8: Penalties

A violation of Article I, Section 2: (C)(D)(E)(F) and Section 6: of this resolution shall constitute an unclassified civil misdemeanor punishable by a civil fine as follows:

- a. First Offense: \$250.00
- b. Second Offense: \$500.00
- c. Third Offense: \$750.00
- d. Fourth and Subsequent Offenses: \$1000.00

A violation of all other sections of Article I shall constitute an unclassified civil misdemeanor punishable by a civil fine as follows:

- a. First Offense: \$25.00
- b. Second Offense: \$50.00
- c. Third Offense: \$75.00
- d. Fourth and Subsequent Offenses: \$100.00

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 to be humanely destroyed by a licensed veterinarian, the county dog

alternate order the dangerous dog to be humanely destroyed by a licensed veterinarian, the county dog warden, or the county humane society.

ARTICLE II. ENDANGERED SPECIES, EXOTIC ANIMALS

SECTION 1: Definitions

(A) "Endangered species" means those species defined in the Endangered Species Act (16 U.S.C. 1531 et. seq.) and Section §1531.25 of the Ohio Revised Code, as they may be subsequently amended.

(B) "Exotic Animal" means;

(1) Any animal that is native to a foreign country or of foreign origin or character, is not native to the United States, or was introduced from abroad. This term specifically includes animals such as, but not limited to, lions, tigers, leopards, elephants, camels, antelope, anteaters, kangaroos, and water buffalo, and species of foreign domestic cattle, such as Ankole, Gayal, and Yak;

(2) Any reptile capable of injecting any venom which is poisonous to humans and/or other animals or any reptile capable of inflicting serious physical harm or death to humans and/or other animals by constriction;

(3) Any animal not indigenous to the State of Ohio, which is predatory in nature, and by reason of its size, strength, bite or claws is capable of inflicting serious physical harm or death to humans and/or other animals, including but not limited to bears, alligators, crocodiles or similar species thereof.

SECTION 2: Prohibition

The keeping and harboring of exotic animals or endangered species except as otherwise provided in Section 3 is prohibited.

SECTION 3: Exemptions

(A) "Exotic Animals" or "Endangered Species" may be kept in business, commercial or industrial zones of three (3) acres or more by those persons or businesses fully-licensed and approved by the United States Department of Agriculture (U.S.D.A.), United States Department of the Interior (U.S.D.I.) or Ohio Department of Natural Resources (O.D.N.R.) as the case may be. Before any animals are placed upon the premises, registration with the Zoning Officer shall be required in the manner prescribed. Registration must include copies of all licensing documents, proof of liability insurance in the amount of 1,000,000.00, and a fee of \$100.00. Registration must be renewed annually.

(B) Such animals shall be confined and restrained at all times in a locked building or structure or an enclosed fenced area, adequate to prevent the escape of the animal or entry by trespass, and that such facility shall be inspected and approved by the zoning inspector, prior to the issuance of the prescribed registration or renewal thereof.

(C) Such animals shall not be permitted to run at large.

SECTION 4: Duty to report escape of certain animals

(A) The owner or keeper of any member of a species of the animal kingdom that escapes from his custody or control and that is not indigenous to this state or presents a risk of serious physical harm to persons or property, or both, shall within one hour after he discovers or reasonably should have discovered the escape, report it to:

- (1) A law enforcement officer of the township and the Mahoning County Sheriff; and
- (2) The clerk and/or administrator of the township.

(B) If the offices of township clerk or administrator are closed to the public at a time a report is required by division (A) of this section, then it is sufficient compliance with division (A-2) of this section if the owner or keeper makes a report within one hour after the office is next open to the public

owner or keeper makes a report within one hour after the office is next open to the public.

SECTION 5: Penalties

A violation of Article II of this resolution shall constitute an unclassified civil misdemeanor punishable by a civil fine as follows:

- a. First Offense: \$250.00
- b. Second Offense: \$500.00
- c. Third Offense: \$750.00
- d. Fourth and Subsequent Offenses: \$1000.00

EFFECTIVE DATE OF RESOLUTION

This Resolution shall be effective thirty (30) days from the date of adoption upon both First and Second Readings and Publication thereof.

Mrs. Mancini seconded the Motion to approve a Second Reading and Adoption of Home Rule Resolution No. 01-04:

On the ROLL CALL, the vote resulted as follows:

Mr. John C. Cox aye
Mr. Thomas P. Costello aye
Mrs. Elaine R. Mancini aye

Date of First Reading: September 10, 2001
Date of Second Reading: September 24, 2001

Home Rule Resolution No. 00-04 adopted upon Second Reading this 24th day of September, 2001.

EFFECTIVE DATE OF RESOLUTION AFTER PUBLICATION: October 24, 2001

BY ORDER OF THE BOARDMAN TOWNSHIP BOARD OF TRUSTEES:

John C. Cox, Chair
Thomas P. Costello, Vice-Chair
Elaine R. Mancini, Trustee

ATTEST:

William D. Leicht, Clerk

Prepared by:

Mark S. Finamore
Boardman Township Home Rule Legal Counsel

Approved as to form by:

Mahoning County Prosecutor
Boardman Township Law Director

CERTIFICATION

I, William D. Leicht, Clerk of Boardman Township, do hereby certify that the foregoing is taken and copied from the minutes of Boardman Township, that the same has been compared by me with Home Rule Resolution No. 01-04 of said Minutes, and that same is a true and correct copy thereof.

William D. Leicht, Clerk