

ORDINANCE NO. 144

AN ORDINANCE TO AMEND CHAPTER 610 OF THE CODIFIED ORDINANCES OF THE VILLAGE OF BRECKENRIDGE.

THE VILLAGE OF BRECKENRIDGE ORDAINS:

Section 1. That Section 610.01 (c) is amended to include:

- (1) Liability of dog owner; prima facie evidence of negligence.
Every owner of a dog is liable for damages for any and all injuries to any person or property that may be caused by the dog, to be determined and collected in appropriate proceedings therefore in which any failure or refusal by the owner to comply with the requirements of this article constitutes prima facie evidence of negligence.
- (2) Dog bites, destruction of dog.
Whenever any dog bites or attacks any person without provocation and while outside the enclosure of the owner or keeper, complaint shall be made by the village police to the Gratiot County animal control authorities who will follow their prescribed procedures to have the dog euthanized.
- (3) Quarantine, authorized procedure.
Whenever any person has been bitten by a dog and there is reasonable cause to apprehend danger of rabies, a police officer, health officer, animal control officer or any other person may make complaint in writing to the District Court, charging that such dog has bitten a person, and further alleging that there is a reasonable cause to apprehend danger of rabies, a police officer, health officer or any other person may make complaint in writing to the District Court, charging that such dog has bitten a person, and further alleging that there is reasonable cause to apprehend an attack of rabies, and thereupon the District Court shall issue its citation ordering the person owning or keeping such dog to forthwith appear before the district judge to show cause, if any, why the dog should not be tied up or confined by the owner or keeper for a period of fourteen (14) days. If after such hearing, the District Court finds the allegation set forth in the complaint to be true, he shall then and there make an order directing the owner or keeper to tie up, confine and securely keep the dog for fourteen (14) days, and a copy thereof shall be served upon the owner or keeper, and if the owner or keeper fails to comply with the terms of the order, the Animal Control Department shall thereupon seize the dog and securely confine it for the period of time designated in the order of the District Court. If, during such period, the dog does not show symptoms of rabies, it shall be returned at the expiration of the time designated in the order, to the person from whom it was taken. If the dog is tied up and secured by the owner or keeper, and it dies, the owner or keeper shall immediately notify the

Animal Control Department of the death. In the event of the death of any dog quarantined, it is the duty of the Animal Control Department to properly prepare the brain and spinal cord of the dog and send the same to a laboratory for examination and they shall properly warn the suffering person of the death of the dog and notify the person of the result of the examination at the laboratory so that the proper precautions can be taken.

(4) Keeping unlawful; exception.

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

(5) Definition.

For purposes hereof "vicious dog" is defined to mean:

- (a) Any dog with a propensity, tendency of disposition to attack, to cause injury or to otherwise endanger the safety of human beings or other domestic animals; or
- (b) Any dog which attacks, attempts to attack, or which by its actions give indication that it is liable to attack a human being or other domestic animal.

(6) Determination.

The animal control officer or any police officer shall investigate all complaints of a vicious dog. In the event that the animal control officer and/or any police officer has reasonable cause to believe that a dog is vicious, he or she shall institute proceedings in the District Court for the County of Gratiot, requesting the court to conduct a hearing as to whether or not the dog should be declared vicious under this division. The issue of whether the dog is vicious within the meaning of this division shall be decided based upon a preponderance of the evidence. If the court finds the dog to be vicious, it may order that the dog be confined to the owner's premises and the provisions of this division be fully complied with, or (that such dog be) euthanized. The court may establish a time schedule to assure compliance with this division, but in no case shall such time exceed fourteen (14) days after the date of the court's determination. Court costs for such actions shall be taxed against the owner of the dog.

The court may decide all issues for or against the owner of the dog regardless of the fact that the owner fails to appear at said hearing. In the event that the animal control officer and/or any police officer has probable cause to believe that the dog in question is vicious and may pose a threat of serious harm to human beings or other domestic animals, the animal control officer or police officer may seize and impound the dog pending the hearing. The owner of the dog shall be liable to the Animal Control Department for the cost and expenses of keeping such dog.

(7) Requirements for registration.

Upon a finding by the court that a dog is vicious, its owner shall comply with the following requirements for licensing:

- (a) License application: The owner shall apply to the Village Clerk for a vicious dog license which shall be valid for one (1) year from the date of its approval and provided all conditions of this division and applicable court orders have been met. The license shall be renewable for successive one-year periods provided that the dog is to be kept on the same premises, under the same conditions, and its owner has not violated any condition of this division or any court order during the previous twelve-month period. No such license shall be transferred to a new owner of the dog or to a new location or address where the dog will be kept. The fee for such license shall be determined by Village Council resolution from time to time.
- (b) Prior to the receipt of the license, the owner shall present to the Village Clerk proof that the owner has procured liability insurance in an amount to be determined by the Village Council by resolution from time to time, covering any damage or injury which may be caused by such vicious dog during the twelve-month period from which licensing is sought. In addition, the owner shall sign a statement attesting that the owner shall maintain the liability insurance during the twelve-month period for which licensing is sought, unless the owner shall cease to keep or harbor the vicious dog prior to the expiration of such license.
- (c) Prior to the receipt of the license, the owner shall provide for the confinement of the vicious dog. Such dog shall be securely confined indoors or in a securely enclosed and locked pen or kennel, except when leashed and muzzled as herein provided. Such pen, kennel or structure must have secure sides and a secure top attached to the sides. All structures used to confine such dogs must be locked with a key or combination lock when such animals are within the structure. Such structure must have secure bottom or floor attached to the sides of the pen, or the sides of the pen must be embedded in the ground to a depth of no less than two (2) feet. All structures erected to house such dogs must comply with all zoning and building regulations of the Village. All such structures must be adequately lighted and ventilated and kept in a clean and sanitary condition. If the vicious dog is to be confined indoors, the same shall not be kept on a porch or patio or in any other part of the house or structure that would allow the dog to exit of its own volition. In addition, no such animal may be kept in a house or structure when the windows are open or when screen windows or screen doors are the only obstacle preventing the dog from exiting.
- (d) Sign: Prior to the receipt of a license, the owner shall display a sign in a prominent place on his or her premises, which sign shall be easily readable by the public, using the words "Beware of Dog". In addition, a similar sign is required to be posted on the kennel or pen of such animal.

- (e) Identification photographs: Prior to the receipt of a license, the owner shall provide the Village's police department with two (2) recent colored photographs of the vicious dog, which clearly shows the color and approximate size of the animal.
- (f) License fee. The owner shall pay a license fee in an amount established from time to time by resolution of the Village Council.

(8) Control.

It shall be unlawful for any owner to allow any vicious dog to be outside of the dwelling of the owner or outside of the enclosure unless the dog shall be surely muzzled and restrained with a choker chain and leash, having a minimum tensile strength of three hundred (300) pounds and not exceeding four (4) feet in length, and then only upon the private property of the owner, unless it is necessary for the owner to obtain veterinary care for the dog, to sell it or give it away, or to comply with commands or directions of the court, the animal control officer, or any police officer. The muzzle should be made and fitted in a manner that will not cause injury to the dog or interfere with its vision or respiration, but shall prevent it from biting any human or animal. The animal shall be under the direct control and supervision of the owner of the dog or his agent, either of whom shall be, in any event, a person of at least eighteen (18) years of age and physically capable of restraining the animal.

(9) Reporting Requirements.

(a) All owners, keepers or harborers of vicious dogs must, within ten (10) days of the incident, report the following information in writing to the Village Clerk:

- (1) The removal from the Village or death of a vicious dog.
- (2) The birth of offspring of a vicious dog.
- (3) The new address of the vicious dog should the owner move within the corporate limits of the Village.

(b) No person shall sell, barter, or in any other way dispose of a vicious dog to any person within the Village, unless the recipient person resides permanently in the same household and on the same premises as the owner of such dog; provided that the owner of the dog may sell or otherwise dispose of a registered dog to persons who do not reside within the Village.

(10) Acquisition.

Any person who, subsequent to the effective date of October 1, 2005, shall acquire a dog and bring the same into the limits of the Village, shall, if the dog is subsequently determined to be a vicious dog, within forty-eight (48) hours, dispose of the dog either by euthanasia or moving the dog to a place outside the corporate limits of the Village.

(11) Presumption.

There shall be a rebuttable presumption that a pit bull dog is a vicious dog for purposes of this division. "Pit bull" dog is defined for the purposes of this division to mean the Bull Terrier breed of dog, the Staffordshire Bull Terrier breed of dog, the American Pit Bull Terrier breed of dog, the American Staffordshire Terrier breed of dog, dogs of mixed breed or other breeds which breed or mixed breed are known as pit bulls, pit bulldogs, or pit bullterriers, and any dog which has the appearance and characteristics of being predominantly of the breeds of Bull Terrier, Staffordshire Bull Terrier, American Pit Bull Terrier, American Staffordshire Terrier, or any other breed commonly known as pit bulls, pit bulldogs, or pit bull terriers, or a combination of any of these breeds.

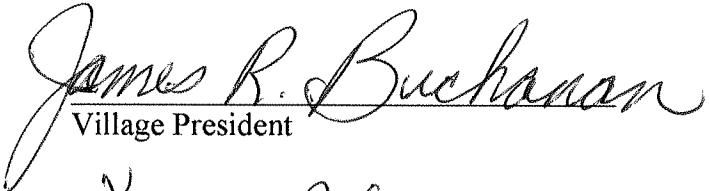
Section 2. Separability. If any section, subsection, paragraph, sentence, clause, phrase, or portion of this ordinance is, for any reason, held invalid or unconstitutional by any Court of competent jurisdiction, such portion shall be deemed a separate, distinct and independent provision and such holding shall not affect the validity of the remaining portions thereof.

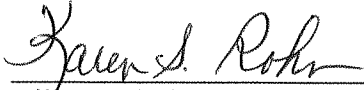
Section 3. Ordinances Repealed. All ordinances and/or parts of ordinances inconsistent with this ordinance are hereby repealed.

Section 4. Effective Date. This ordinance shall take effect and be in force 20 days from and after its enactment as provided by the Village Council.

We, the undersigned, President and Clerk of the Village of Breckenridge, Michigan, do hereby certify that the above and foregoing Ordinance, known as Ordinance No. 144 of the Village of Breckenridge, Michigan, was introduced at a regular meeting of the Village Council, held on July 25, 2005, and was thereafter passed at a regular meeting on August 22, 2005, at least two weeks elapsing between the introduction and the enactment.

Dated at Breckenridge, Michigan, this twenty-second day of August, 2005.


Village President


Village Clerk