

ORDINANCE NO. 530

An Ordinance To Repeal And Recreate Section 2.14 (6) Of Chapter Two Of The General Ordinances Of The Village Of River Hills Relating To The Regulation Of Potentially Dangerous, Dangerous and Vicious Dogs

The Village Board of the Village of River Hills, Milwaukee County, do ordain as follows:

Section I. Section 2.14 (6) of Chapter 2 of the General Ordinances of the Village of River Hills is hereby repealed and recreated to read as follows:

“6) Regulation of Potentially Dangerous, Dangerous and Vicious Dogs:

(a) Definitions.

- (1) *Bite injury* means any contact between an animal's mouth and teeth and the skin of a bite victim which causes visible trauma, such as a puncture wound, laceration, or other piercing of the skin.
- (2) *Dangerous dog* means any dog: (1) that has caused a bite injury to a person; or (2) causes injury to any person while at large; (3) or causes serious physical injury to a person or domestic animal; and is not a vicious dog.
- (3) *Enclosure* means a fenced or walled area having a fence or wall height of at least six (6) feet suitable to prevent the entry of young children and suitable to confine a dog.
- (4) *Impoundment* means seizing and confining a dog by any Officer under the provisions of this Section.
- (5) *Muzzle* means a device constructed of strong, soft material or of metal, designed to fasten over the mouth of a dog that prevents the dog from biting any person or other animal and that does not interfere with its respiration.
- (6) *Potentially dangerous dog* means a dog that while at large: (1) behaves in a manner that a reasonable person would believe poses a serious and unjustified imminent threat of serious physical injury or death to a person or domestic pet or animal, or (2) causes injury to a domestic pet or animal; or (3) a dog not in strict conformity with the rabies control program of the Village.

- (7) *Provocation* means any action or activity, whether intentional or unintentional, which would be reasonably expected to cause a normal dog in similar circumstances to react in a manner similar to that shown by the evidence.
- (8) *Vicious dog* means a dog that on two separate occasions without provocation or justification causes serious physical injury to a person or a domestic pet or animal without provocation while off its owner's property.

(b) Exceptions:

It is a rebuttable presumption that a dog is not potentially dangerous, dangerous or vicious if it is used by law enforcement officers in the performance of their duties or if it bites, attacks or menaces any person, domestic pet or animal in order to:

- (1) Defend its owner, caretaker or another person from an attack by a person or animal.
- (2) Protect itself, its young or another animal.
- (3) Defend itself against any person or animal which has tormented, assaulted or abused it.
- (4) Defends its owner's or caretaker's property against trespassers.

(c) Determination of Status.

- (1) An Officer may find and declare a dog potentially dangerous, dangerous, or vicious if the Officer has probable cause to believe that the dog falls within the definition of "potentially dangerous dog", "dangerous dog" or "vicious dog". The finding must be based upon:
 - (i) The written complaint of a person who is willing to testify that the animal has acted in a manner which causes it to fall within the definition of "potentially dangerous dog", "dangerous dog" or "vicious dog"; or
 - (ii) Dog bite reports filed as required by law; or
 - (iii) Actions of the dog witnessed by any Officer or any law enforcement officer; or
 - (iv) Other substantial evidence admissible in a court.

- (2) A dog may be declared dangerous under this section if the dog has within a twelve month period: (1) behaved in a manner that a reasonable person would believe poses a serious and unjustified imminent threat of serious physical injury or death to a person on more than one occasion; or (2) attacked and killed a domestic animal on more than one occasion. For purposes of this subsection only, a domestic animal does not include any feral animal or does not apply where the attack was upon a domestic animal that was at large or upon a domestic animal that was tormenting or attacking the dog.
- (3) If an Officer determines that a dog is potentially dangerous, dangerous or vicious as defined in this Section, the Officer shall immediately inform the owner in writing, by personal service or certified mail, of such determination. The owner may contest the determination by a written request for a hearing to the Chief of Police within 5 business days of service of the determination. The Chief of Police or his/her designee will convene a hearing. At the hearing, the owner, the Officer, or any interested party shall have the opportunity to present evidence as to why the dog should or should not be declared potentially dangerous, dangerous or vicious. Any other interested party should be notified of the hearing in writing, by regular mail. The hearing shall be held promptly within no less than seven days, nor more than fourteen days, after the service of the notice upon the owner of the dog. Pending the outcome of the hearing, all of the regulations applicable to a dog for which such determination has been made are applicable. After the hearing, the owner shall be notified in writing of the determination. If the Officer's determination is affirmed or modified, the owner shall comply with the provisions of this Section in accordance with a time schedule established by the Chief of Police, but in no case more than 30 days after the date of the determination. If the owner further contests the determination, he or she may appeal the decision within 5 business days of receiving the decision to the Board of Appeals. The decision of the Chief is not stayed pending the appeal, unless the Board of Appeals grants a stay. In the absence of a time schedule being established by the Board of Appeals, the owner should comply in accordance with the time schedule previously established by the Chief of Police.
- (4) *Notice.* When notice is given by regular mail to the owner's

last known address, notice is effective on the third day after the notice was placed in the mail, postage prepaid, to the owner's last known address. When notice is given by certified mail, notice is effective when received; provided however, if certified mail delivery has been refused, notice is effective by publication or posting and whenever notice is accomplished by publication or posting the notice is effective and deemed received on the earlier of the day the property is posted or the newspaper is published.

(d) Regulation of Potentially Dangerous Dogs.

- (1) No person owning, harboring or having the care or custody of a potentially dangerous dog shall permit the dog to go at large or leave the owner's property unless the dog is securely leashed and muzzled.
- (2) *Spaying/Neutering.* All owners of potentially dangerous dogs may be required to spay or neuter the dog and provide proof of sterilization to the Chief of Police within 30 days of the Officer declaring the dog potentially dangerous. In the event that the owner submits a timely request for a hearing or appeal of the declaration then this requirement shall be stayed until such time as any further right to appeal has been exhausted or the declaration has been overturned on appeal.
- (3) The owner of a potentially dangerous dog may apply to the Chief of Police to have the declaration waived after two (2) years upon meeting the following conditions:
 - (i) The owner and offending dog has no subsequent violations of this Section; and
 - (ii) The owner of the dog has complied with all the provisions of this Section for a period of two (2) years; and
 - (iii) The owner provides proof to the Chief of Police of successful completion of a behavior modification program administered by a Certified Pet Dog Trainer (CPDT), Certified Dog Behavior Consultant (CDBC), or Veterinary Behaviorist, certified through the American College of Veterinary Behaviorists (ACVB) or equivalent training.

If the Chief of Police finds sufficient evidence that the dog owner has complied with all conditions in this subsection, then the Chief of Police may rescind the potentially dangerous

dog declaration within 30 days after written notice to the Owner and to any other interested person who submitted a written complaint at the time the declaration was originally made or appeared at any hearings if the owner contested the declaration or appealed the declaration or decision of the Chief of Police.

(e) Regulation of Dangerous Dogs.

(1) Once a dog has been declared dangerous, it shall be kept in a secure enclosure subject to the following requirements:

(i) *Leash.* No person having charge, custody, control or possession of a dangerous dog may permit such dog to go outside of its enclosure unless the dog is securely attached to a leash, no longer than 4 feet in length, and the owner or any other person has the physical ability to restrain the dog at all times. No owner may permit a dangerous dog to be kept on a chain, rope, leash or similar restraining device outside its enclosure unless a person competent to govern the animal is in physical control of the restraining device and remains in position to control the dog at all times

(ii) *Muzzle.* It shall be unlawful for any owner or keeper of a dangerous dog to allow the dog to be outside of its proper enclosure unless it is necessary for the dog to receive veterinary care or exercise. In such cases, the dog shall wear a properly fitted muzzle to prevent it from biting humans or other animals. Such muzzle shall not interfere with the dog's breathing or vision.

(iii) *Confinement.* Except when leashed and muzzled as provided in this Section, a dangerous dog shall be securely confined in a residence or confined in a locked pen or other secure enclosure that is suitable to prevent the entry of children and is designed to prevent the dog from escaping. The enclosure shall include shelter and protection from the elements and shall provide adequate exercise room, light, and ventilation. The enclosed structure shall be kept in a clean and sanitary condition and shall meet the following requirements:

- (1) The structure must have secure sides and a secure top, or all sides must be at least six (6) feet high;
- (2) The structure must have a bottom permanently attached to the sides or the sides must be embedded

not less than one (1) foot into the ground; and
(3) The structure must be of such material and closed in such a manner that the dog cannot exit the enclosure on its own.

(iv) *Indoor Confinement.* No dangerous dog shall be kept on a porch, patio or in any part of a house or structure that would allow the dog to exit such building on its own volition. In addition, no such dog shall be kept in a house or structure when the windows or screen doors are the only obstacle preventing the dog from exiting the structure.

(v) *Spaying/Neutering.* All owners of dangerous dogs must spay or neuter the dog and provide proof of sterilization to the Chief of Police within 14 days of the Officer declaring the dog dangerous. In the event that the owner submits a timely request for a hearing or appeal of the declaration, then this requirement shall be stayed until such time as any further right to appeal has been exhausted or the declaration has been overturned on appeal.

(vi) *Identification Photographs.* All owners, keepers, or harborers of dangerous dogs must within ten (10) days of determination provide to the Chief of Police two color photographs of the registered dog clearly showing the color and approximate size of the dog.

(vii) *Sale or Transfer of Ownership Prohibited.* Sale - No person shall sell, barter or in any other way dispose of a dangerous dog registered with the Village 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 a dangerous dog may sell or otherwise dispose of a registered dog to persons who do not reside within the Village. Owner must disclose dog's status as a dangerous dog to anyone to whom the owner transfers custody or care of the dog.

(viii) *Notification of Escape.* The owner or keeper of a dangerous dog shall notify the Village Police Department immediately if such dog escapes from its enclosure or restraint and is at large. Such immediate notification shall also be required if the dog bites or attacks a person or domestic animal.

(ix) *Failure to Comply.* It shall be an offense to fail to comply

with the restrictions in this Section. Any dog found to be in violation of this Section shall be subject to immediate seizure and impoundment pursuant to 4-208. In addition, failure to comply with the requirements and conditions set forth in this Ordinance shall result in the revocation of the dog's license and the permit providing for the keeping of such dog.

(x) *Liability Insurance, Surety Bond.* The owner of a dangerous dog may be required to present to the Chief of Police proof that he has procured liability insurance or a surety bond in the amount of not less than one hundred thousand dollars (\$100,000) covering any damage or injury that may be caused by such dangerous dog. The policy shall contain a provision requiring that the Village be notified immediately by the issuing company if the insurance policy is canceled, terminated or expires. The liability insurance or surety bond shall be obtained prior to the issuing of a permit to keep a dangerous dog. The dog owner shall sign a statement attesting that he shall maintain and not voluntarily cancel the liability insurance policy during the twelve (12) month period for which a permit is sought, unless he ceases to own or keep the dog prior to the expiration date of the permit period.

(2) A dangerous dog owner may apply to the Chief of Police to have the declaration waived after three (3) years upon meeting the following conditions:

(i) The owner and offending dog has no subsequent violations of this Section; and

(ii) The owner of the dog has complied with all the provisions of this Section for a period of three (3) years; and

(iii) The owner provides proof to the Chief of Police of successful completion of a behavior modification program administered by a Certified Pet Dog Trainer (CPDT), Certified Dog Behavior Consultant (CDBC), or Veterinary Behaviorist, certified through the American College of Veterinary Behaviorists (ACVB) or equivalent training.

If the Chief of Police finds sufficient evidence that the dog owner has complied with all conditions in this subsection, then the Chief of Police may rescind the dangerous dog declaration within 30 days after written notice to the Owner and to any other interested person who submitted a written

complaint at the time the declaration was originally made or appeared at any hearings if the owner contested the declaration or appealed the declaration or decision of the Chief of Police.

(f) Regulation of Vicious Dogs.

- (1) Once a dog has been declared vicious, it shall be subject to all of the requirements applicable to a dangerous dog in subsection (e) above.
- (2) Upon request from the Chief of Police the Village Board may authorize the Village Attorney to commence a civil action to obtain a judgment from a court ordering an officer to kill or destroy such dog, as specified under sec. 174.02(3), Wis. Stats.
- (3) The owner of a vicious dog shall be liable for and shall pay all costs associated with impoundment, removal, or euthanasia of said animal. The owner shall pay any other associated costs incurred.

(g) Permit for Vicious Dog.

The owner of a vicious dog shall, within seven (7) business days after the declaration of the dog as vicious, or upon acquisition of such a dog, obtain an annual permit from the Village Clerk to harbor the dog. The fee for such permit shall be one thousand dollars (\$1,000.00) per year. The initial fee shall be prorated if issued after January 1st and shall be due on or before January 1st of each year thereafter. In the event that the owner submits a timely request for a hearing or appeal of the declaration, then this requirement shall be stayed until such time as any further right to appeal has been exhausted or the declaration has been overturned on appeal.

(h) Declaration of Dangerous or Vicious Dog by Others.

Any dog that has been declared dangerous or vicious by any agency or department of another municipality, county, or state shall be subject to the provisions of this Section for the remainder of its life. The person owning or having custody of any dog designated as a dangerous or vicious dog by any municipality, county, or state government shall notify the Police Department and Village Clerk of the dog's address and the conditions or restrictions of maintenance already imposed by the other agency or department within ten (10) days of moving the animal into the Village. All of the restrictions and

conditions of maintenance of any dog declared dangerous or vicious by another municipality, county, or state shall remain in force while the dog remains in the Village, unless expressly modified in writing by the Chief of Police or his/her designee. In addition all of the provisions of this Ordinance shall apply to such dog unless the restrictions or conditions of maintenance imposed by the other agency or department are more restrictive than the requirements of this Ordinance.

(i) Removal of Dangerous or Vicious Dog.

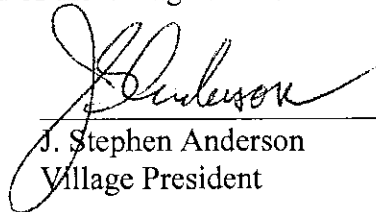
If the owner or caretaker of a dog that has been designated dangerous or vicious is unwilling or unable to comply with the regulations for keeping the dog in accordance with this section, he or she shall remove the dog from the Village, with the dog only being allowed to be returned if there is compliance with all regulations of this section. The owner shall remove the dog within 24 hours of service of written notice to do so. In the event that the owner refuses to accept such notice, the police department may attach the written notice to the front door of the owner's residence and such notice shall be deemed served upon posting on the door."

Section II. If any subsection, section or portions of this article or the sections of this ordinance as enacted hereunder is for any reason held invalid or unconstitutional by any court of competent jurisdiction, such portions shall be deemed a separate, distinct and independent provision and such holdings shall not affect the validity of the remaining portions hereof.

Section III. All ordinances or parts of ordinances conflicting with the provisions of this ordinance are to such extent repealed.

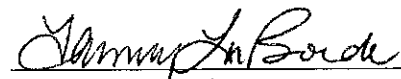
Section IV. This ordinance shall be in full force and effect after its passage and publication as provided by law.

PASSED AND ADOPTED by the Village Board of the Village of River Hills this 14 th day of November, 2018.



J. Stephen Anderson
Village President

Countersigned:



Tammy LaBorde
Village Clerk