

ORDINANCE NO. 2018-28 (As Amended)

INTRODUCED: Ms. Sturgis

AN ORDINANCE ENACTING NEW SECTION 505.011 AND AMENDING CERTAIN SECTIONS OF CHAPTER 505, TITLED “ANIMALS AND FOWL,” OF THE GENERAL OFFENSES CODE OF THE CODIFIED ORDINANCES OF MORELAND HILLS AND DECLARING AN EMERGENCY.

WHEREAS, various provisions within Chapter 505, “Animals and Fowl,” of the Codified Ordinances of the Village of Moreland Hills require amendments to comport with changes in State law related to the registering, keeping, owning, and harboring of dogs and the designation of certain dogs as nuisance, dangerous, or vicious; and

WHEREAS, Chapter 955 of the Ohio Revised Code no longer permits breed specific bans or the designation of certain breeds, such as pit bulls or bull terriers, as per se dangerous or vicious; and

WHEREAS, the amendments to Chapter 505 as set forth herein are made pursuant to the Village’s home rule authority set forth in Article XVIII, Section 3 of the Ohio Constitution and the Village Charter; and

WHEREAS, Council finds that it is in the best interests of the health, safety, and welfare of the citizens and visitors of the Village to enact new Section 505.011 and amend existing Sections 505.01, 505.02, 505.03, and 505.071 of Chapter 505 to provide specific regulations related to the registering, owning, keeping, and harboring of dogs; and

WHEREAS, Council finds that these provisions are reasonable controls to protect the health, safety, and welfare of the Village’s residents and visitors.

NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE VILLAGE OF MORELAND HILLS, COUNTY OF CUYAHOGA, STATE OF OHIO, THAT:

Section 1. New Section 505.011, “Designation of a Dog as a Nuisance, Dangerous, or Vicious Dog and Hearing” of the Codified Ordinances of the Village of Moreland Hills shall read in its entirety as follows:

“505.011 DESIGNATION OF DOG AS A NUISANCE, DANGEROUS AND VICIOUS DOG CLASSIFICATION AND HEARING.

(a) If an animal control officer or peace officer has reasonable cause to believe that a dog in the person’s jurisdiction is a nuisance dog, dangerous dog, or vicious dog as defined in Section 505.01 of this Code, the animal control officer or peace officer shall notify the owner, keeper, or harbinger of that dog, by certified mail or in person, of the following:

- (1) That the person has designated the dog a nuisance dog, dangerous dog, or vicious dog, as applicable; and

(2) That the owner, keeper, or harbinger of the dog may request a hearing regarding the designation in accordance with this section. The notice shall include instructions for filing a request for a hearing in the county in which the dog's owner, keeper, or harbinger resides. (ORC 955.222(B))

(b) If the owner, keeper, or harbinger of the dog disagrees with the designation of the dog as a nuisance dog, dangerous dog, or vicious dog, as applicable, the owner, keeper, or harbinger, not later than ten (10) days after receiving notification of the designation, may request a hearing regarding the determination. The request for a hearing shall be in writing and shall be filed with the municipal court that has territorial jurisdiction over the residence of the dog's owner, keeper, or harbinger. At the hearing, the person who designated the dog as a nuisance dog, dangerous dog, or vicious dog has the burden of proving, by clear and convincing evidence, that the dog is a nuisance dog, dangerous dog, or vicious dog. (ORC 955.222(B))

The owner, keeper, or harbinger of the dog or the person who designated the dog as a nuisance dog, dangerous dog, or vicious dog may appeal the court's final determination as in any other case filed in that court. (ORC 955.222(C))

(c) A court, upon motion of an owner, keeper, or harbinger or an attorney representing the owner, keeper, or harbinger, may order that the dog designated as a nuisance dog, dangerous dog, or vicious dog be held in the possession of the owner, keeper, or harbinger until the court makes a final determination under this section or during the pendency of an appeal, as applicable. Until the court makes a final determination and during the pendency of any appeal, the dog shall be confined or restrained in accordance with the provisions of division (e) of section 505.01 of this Code that apply to dangerous dogs regardless of whether the dog has been designated as a vicious dog or a nuisance dog rather than a dangerous dog. The owner, keeper, or harbinger of the dog shall not be required to comply with any other requirements established in the Revised Code that concern a nuisance dog, dangerous dog, or vicious dog, as applicable, until the court makes a final determination and during the pendency of any appeal. (ORC 955.222(D))

(d) If a dog is finally determined under this section, or on appeal as described in this section, to be a vicious dog, section 955.11(D) of the Ohio Revised Code and Section 505.01(e) through (j) of this Code apply with respect to the dog and the owner, keeper, or harbinger of the dog as if the dog were a dangerous dog, and section 955.54 of the Ohio Revised Code applies with respect to the dog as if it were a dangerous dog, and the court shall issue an order that specifies that those provisions apply with respect to the dog and the owner, keeper, or harbinger in that manner. As part of the order, the court shall require the owner, keeper, or harbinger to obtain liability insurance as required under Section 505.01(f) and in an amount describe under Section 505.01(q) of this Code. (ORC 955.222(E))”

Section 2. Existing Section 505.01, “Dogs and Other Animals Running at Large; Dangerous and Vicious Dogs,” of the Codified Ordinances of the Village of Moreland Hills, Ohio, be and the same hereby is amended in its entirety to read as follows:

**“505.01 DOGS AND OTHER ANIMALS RUNNING AT LARGE;
DANGEROUS AND VICIOUS DOGS.**

(a) As used in this section:

(1) “Dangerous dog” is defined as follows:

- A. “Dangerous dog” means a dog that, without provocation, and subject to paragraph (a)(1)(B) of this Section, has done any of the following:
 - (i) Caused injury, other than killing or serious injury, to any person;
 - (ii) Killed another dog;
 - (iii) Been the subject of a third or subsequent violation of division (e) of this Section.
 - B. “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.
- (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) “Nuisance Dog”
- A. Subject to division (a)(3)(B) of this Section, “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.
 - B. “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.
- (4) “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.
- (5) “Serious Injury” means any of the following:
- A. Any physical harm that carries a substantial risk of death;
 - B. Any physical harm that involves a permanent incapacity, whether partial or total, or a temporary, substantial incapacity;
 - C. Any physical harm that involves a permanent disfigurement or a temporary, serious disfigurement; or
 - D. Any physical harm that involves acute pain of a duration that results in substantial suffering or any degree of prolonged or intractable pain.
- (6) “Vicious dog” is defined as follows:
- A. “Vicious dog” means a dog that, without provocation, and subject to paragraph (a)(6)(B) of this Section, has killed or caused serious injury to any person.
 - B. “Vicious dog” does not include either of the following:
 - (i) 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; or

- (ii) A dog that has killed or caused serious injury to any adult person while that adult person was committing or attempting to commit a criminal trespass or other criminal offense on the property of the owner, keeper or harbinger of the dog.

- (7) “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. (ORC 955.11)

(b) No person, who is the owner of keeper of horses, mules, cattle, bison, sheep, goats, swine, llamas, alpacas, or poultry, shall permit them to run at large in the public road, highway, street, lane, or alley, or upon unenclosed land, or cause the animals to be herded, kept, or detained for the purpose of grazing on premises other than those owned or lawfully occupied by the owner or keeper of the animals. (ORC 951.02)

(c) 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. (ORC 955.22(B))

(d) Except when a dog is lawfully engaged in hunting and accompanied by the owner, keeper, harbinger, or handler of the dog, no owner, keeper, or harbinger 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 by leash, tether, adequate fence, supervision, or secure enclosure to prevent escape;
- (2) Keep the dog under the reasonable control of some person. (ORC 955.22(C))

(e) Except when a dangerous 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 dangerous 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 that has a top, locked fenced yard, or other locked enclosure that has a top;
- (2) While that dog is off the premises of the owner, keeper, or harbinger, keep that dog on a chain-link leash or tether 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, locked fenced 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. (ORC 955.22(D))

(f) No person who has been convicted of or pleaded guilty to three or more violations of division (e) of this Section involving the same dog and no owner, keeper or harbinger of a dangerous dog shall fail to do the following:

- (1) Obtain liability insurance with an insurer authorized to write liability insurance in this state providing coverage in each occurrence because of damage or bodily injury to or death of a person caused by the dangerous dog if so ordered by a court and provide proof of that liability insurance upon request to any law enforcement officer, county dog warden, or public health official charged with enforcing Section 505.01 of this Code;
- (2) Obtain a dangerous dog registration certificate from the county fiscal officer pursuant to Section 955.22(I) of the Ohio Revised Code, affix a tag that identifies the dog as a dangerous dog to the dog's collar, and ensure that the dog wears the collar and tag at all times;
- (3) Notify the local dog warden immediately if any of the following occurs:
 - A. The dog is loose or unconfined.
 - B. The dog bites a person, unless the dog is on the property of the owner of the dog, and the person who is bitten is unlawfully trespassing or committing a criminal act within the boundaries of that property.
 - C. The dog attacks another animal while the dog is off the property of the owner of the dog.
- (4) If the dog is sold, given to another person, or dies, notify the county fiscal officer within ten (10) days of the sale, transfer, or death. (ORC 955.22(E))

(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 dangerous dog;
- (2) Possess a dangerous 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 (h) of this Section that the person's dog is not a dangerous dog or otherwise provide false information on that written waiver form. (ORC 955.22(F))

(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 dangerous 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 dangerous dog;
- (5) A statement that division (g) of this Section 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 dangerous dog;

- B. Possessing a dangerous 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 this Section that the person's dog is not a dangerous dog or otherwise provide false information on that written waiver form. (ORC 955.22(G))

(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 that attests that the dog is not a dangerous dog. (ORC 955.22(H))

(j) The county shall issue a dangerous dog registration certification in accordance with section 955.222(I) of the Ohio Revised Code. (ORC 955.22(I))

(k) Whoever violates division (b) of this Section hereof is guilty of a misdemeanor of the first degree. (ORC 951.99)

(l) Whoever violates any of the provisions of division (c) of this Section hereof is guilty of a misdemeanor of the first degree. (ORC 955.99(E))

(m) Whoever violates any of the provisions of division (d) of this Section hereof is guilty of a misdemeanor of the first degree. In addition, if the offender is guilty of a violation of division (d) of this Section, the court may order the offender to personally supervise the dog that he or she owns, keeps or harbors, to cause that dog to complete dog obedience training, or to do both. (ORC 955.99(E) and (F))

(n) In addition to the penalties described in division (m) of this Section, any person who has been convicted of or pled guilty to a third violation of division (d) hereof involving the same dog shall be required to register the dog as a dangerous dog. (ORC 955.99(F))

(o) Whoever commits a violation of division (d) of this Section hereof involving a dangerous dog or a violation of division (e) of this Section hereof is guilty of a misdemeanor of the first degree. Additionally, the court may order the offender to personally supervise the dangerous dog that the offender owns, keeps, or harbors, to cause that dog to complete dog obedience training, or do both, and the court may order the offender to obtain liability insurance pursuant to division (f) of this Section. In the alternative, the court may order the dangerous dog to be humanely destroyed by a licensed veterinarian, the county dog warden, or the county humane society at the owner's expense. With respect to a violation of division (d) hereof that involves a dangerous dog, until the court makes a final determination and during the pendency of any appeal of a violation of that division and at the discretion of the dog warden, the dog shall be confined or restrained in accordance with division (e) of this Section. (ORC 955.99(G)).

(p) Whoever commits a violation of division (d) of this Section that involves a vicious dog is guilty of one of the following:

- (1) A felony of the fourth degree under section 955.99 of the Ohio Revised Code if the dog kills a person. Additionally, the court shall order that the vicious dog be humanely destroyed by a licensed veterinarian, the county dog warden, or the county humane society at the owner's expense.
- (2) A misdemeanor of the first degree if the dog causes serious injury to a person. Additionally, the court may order the vicious dog to be humanely destroyed by a licensed veterinarian, the county dog warden, or the county humane society at the owner's expense. (ORC 955.99(H))

(q) If the court does not order the vicious dog to be destroyed under division (p)(2) hereof, the court shall issue an order that specifies that division (D) of section 955.11 and divisions (e) to (j) of this Section apply with respect to the dog and the owner, keeper, or harbinger of the dog as if the dog were a dangerous dog and that section 955.54 of the Ohio Revised Code applies with respect to the dog as if it were a dangerous dog. As part of the order, the court shall order the offender to obtain the liability insurance under division (f) of this Section in an amount, exclusive of interest and costs, that equals or exceeds one hundred thousand dollars. Until the court makes a final determination and during the pendency of any appeal of a violation of division (d) of this Section and at the discretion of the dog warden, the dog shall be confined or restrained in accordance with the provisions described in division (e) hereof. (ORC 955.99(H))

(r) Whoever violates division (g)(1), (2), or (3) hereof is guilty of a felony of the fourth degree under section 955.99 of the Ohio Revised Code. Additionally, the court shall order that the dog involved in the violation be humanely destroyed by a licensed veterinarian, the county dog warden, or the county humane society. Until the court makes a final determination and during the pendency of any appeal of a violation of division (g)(1), (2), or (3) hereof and at the discretion of the dog warden, the dog shall be confined or restrained in accordance with the provisions of division (e) hereof. (ORC 955.99(L))

(s) Whoever violates division (f)(1), (3), or (4) hereof 955.22 is guilty of a first degree misdemeanor. (ORC 955.99(M))

(t) Whoever violates division (I)(4) of section 955.22 of the Revised Code is guilty of a minor misdemeanor. (ORC 955.99(N))

(u) Whoever violates division (A) or (B) of section 955.54 of the Revised Code is guilty of a misdemeanor of the first degree. (ORC 955.99(O))”

Section 3. Existing Section 505.01, “Dogs and Other Animals Running at Large; Dangerous and Vicious Dogs,” of the Codified Ordinances of the Village of Moreland Hills, be and the same is hereby repealed.

Section 4. Existing Section 505.02, “Impounding and Disposition; Records” of the Codified Ordinances of the Village of Moreland Hills, Ohio, be and the same hereby is amended in its entirety to read as follows:

“505.02 IMPOUNDING AND DISPOSITION; RECORDS

(a) A law enforcement officer or county dog warden may impound every dog found in violation of Section 505.01, or shall impound such animals otherwise in accordance with this section.

(b) If the impounded dog is not wearing a valid registration tag and the identity of the owner, keeper, or harbinger is not otherwise established, notice shall be posted in the pound or animal shelter both describing the dog and place where seized and advising the unknown owner, keeper, or harbinger that unless the dog is redeemed within three (3) days, it may be sold or otherwise disposed of according to law. If the dog is wearing a valid registration tag or the identity of the owner, keeper, or harbinger is otherwise established, notice shall be given to the owner, keeper, or harbinger that the dog has been impounded and unless redeemed within fourteen (14) days of the date of the notice, it may be sold or otherwise disposed of according to law. Notice may be by telephone or by residence service to the last known address of such

owner or harborer. The dog shall not be released except upon the payment of charges established by Council.

(c) In the event an animal is removed from a residence by the Village because its owner is incarcerated, evicted, deceased, not found or otherwise unable to care for the animal on a daily basis, the animal may be impounded by an officer charged by law with the custody and disposal of such animals for a period of at least 72 hours, in which period the owner may claim the animal. The animal shall not be released except upon the payment of charges established by Council. The Village shall leave notice at the residence of the impounding of the animal and may make other reasonable attempts to provide such notice. If the owner or the owner's designee fails to claim the animal within the 72-hour period, the animal will be considered abandoned and the Village may sell or otherwise dispose of the animal in a humane manner as determined by an officer charged by law with the custody and disposal of such animal.

(d) A record of all dogs impounded, the disposition of the same, the owner's name and address, if known, and a statement of any costs or receipts involving such dog shall be kept."

Section 5. Existing Section 505.02, "Impounding and Disposition; Records" of the Codified Ordinances of the Village of Moreland Hills, be and the same is hereby repealed.

Section 6. Existing Section 505.03, "Registration of Dogs Required" of the Codified Ordinances of the Village of Moreland Hills, Ohio, be and the same hereby is amended in its entirety to read as follows:

"505.03 REGISTRATION OF DOGS AND DOG KENNELS REQUIRED

(a) Except for guide, leader or listener dogs, or dogs in training to become guide, leader or listener dogs, registered under section 955.011 of the Ohio Revised Code, and dogs kept by an institution or organization for teaching and research purposes under section 955.16 of the Ohio Revised Code, no person shall own, keep or harbor a dog more than three months of age without annually registering such dog with the county fiscal officer as required under Chapter 955 of the Ohio Revised Code. Failure of any dog at any time to wear a valid registration tag shall be prima-facie evidence of lack of registration and subject such dog to impounding and disposition as provided by section 955.16 of the Ohio Revised Code.

(b) No person shall own, keep or harbor a dog wearing a fictitious, altered or invalid registration tag or a registration tag not issued by the county fiscal officer in connection with the registration of such animal.

(c) A "dog kennel" or "kennel" as defined under section 955.02 of the Ohio Revised Code shall be registered pursuant to Chapter 955 of the Ohio Revised Code.

(d) Whoever violates this Section is guilty of a misdemeanor of the first degree."

Section 7. Existing Section 505.03, "Registration of Dogs Required" of the Codified Ordinances of the Village of Moreland Hills, be and the same is hereby repealed.

Section 8. Existing Section 505.071, "Cruelty to Companion Animals" of the Codified Ordinances of the Village of Moreland Hills, Ohio, be and the same hereby is amended in its entirety to read as follows:

“505.071 CRUELTY TO COMPANION ANIMALS

- (a) As used in this section:
- (1) "Companion animal" means any animal that is kept inside a residential dwelling and any dog or cat regardless of where it is kept, including a pet store as defined in section 956.01 of the Ohio Revised Code. "Companion animal" does not include livestock or any wild animal.
 - (2) "Cruelty," "torment," and "torture" have the same meanings as in section 1717.01 of the Ohio Revised Code.
 - (3) "Residential dwelling" means a structure or shelter or the portion of a structure or shelter that is used by one or more humans for the purpose of a habitation.
 - (4) "Practice of veterinary medicine" has the same meaning as in section 4741.01 of the Ohio Revised Code.
 - (5) "Wild animal" has the same meaning as in section 1531.01 of the Ohio Revised Code.
 - (6) "Federal animal welfare act" means the "Laboratory Animal Act of 1966," Pub. L. No. 89-544, 80 Stat. 350 (1966), 7 U.S.C.A. 2131 et seq., as amended by the "Animal Welfare Act of 1970," Pub. L. No. 91-579, 84 Stat. 1560 (1970), the "Animal Welfare Act Amendments of 1976," Pub. L. No. 94-279, 90 Stat. 417 (1976), and the "Food Security Act of 1985," Pub. L. No. 99-198, 99 Stat. 1354 (1985), and as it may be subsequently amended.
 - (7) "Dog kennel" means an animal rescue for dogs that is registered under section 956.06 of the Ohio Revised Code, a boarding kennel, or a training kennel.
 - (8) "Boarding kennel" has the same meaning as in section 956.01 of the Ohio Revised Code.
 - (9) "Training kennel" means an establishment operating for profit that keeps, houses, and maintains dogs for the purpose of training the dogs in return for a fee or other consideration.
 - (10) "Livestock" means horses, mules, and other equidae; cattle, sheep, goats, and other bovidae; swine and other suidae; poultry; alpacas; llamas; captive white-tailed deer; and any other animal that is raised or maintained domestically for food or fiber.
 - (11) "Captive white-tailed deer" has the same meaning as in section 1531.01 of the Ohio Revised Code.
 - (12) "Serious physical harm" means any of the following:
 - A. Physical harm that carries an unnecessary or unjustifiable substantial risk of death;
 - B. Physical harm that involves either partial or total permanent incapacity;
 - C. Physical harm that involves acute pain of a duration that results in substantial suffering or that involves any degree of prolonged or intractable pain;

- D. Physical harm that results from a person who confines or who is the custodian or caretaker of a companion animal depriving the companion animal of good, wholesome food and water that proximately causes the death of the companion animal.
- (b) No person shall knowingly torture, torment, needlessly mutilate or maim, cruelly beat, poison, needlessly kill, or commit an act of cruelty against a companion animal.
- (c) No person shall knowingly cause serious physical harm to a companion animal.
- (d) No person who confines or who is the custodian or caretaker of a companion animal shall negligently do any of the following:
- (1) Torture, torment, or commit an act of cruelty against the companion animal;
 - (2) Deprive the companion animal of necessary sustenance or confine the companion animal without supplying it during the confinement with sufficient quantities of good, wholesome food and water if it can reasonably be expected that the companion animal would become sick or suffer in any other way as a result of or due to the deprivation or confinement;
 - (3) Impound or confine the companion animal without affording it, during the impoundment or confinement, with access to shelter from heat, cold, wind, rain, snow, or excessive direct sunlight if it can reasonably be expected that the companion animal would become sick or suffer in any other way as a result of or due to the lack of adequate shelter.
- (e) No owner, manager, or employee of a dog kennel who confines or is the custodian or caretaker of a companion animal shall knowingly do any of the following:
- (1) Torture, torment, needlessly mutilate or maim, cruelly beat, poison, needlessly kill, or commit an act of cruelty against the companion animal;
 - (2) Deprive the companion animal of necessary sustenance or confine the companion animal without supplying it during the confinement with sufficient quantities of good, wholesome food and water if it is reasonably expected that the companion animal would die or experience unnecessary or unjustifiable pain or suffering as a result of the deprivation or confinement;
 - (3) Impound or confine the companion animal without affording it, during the impoundment or confinement, with access to shelter from heat, cold, wind, rain, snow, or excessive direct sunlight if it is reasonably expected that the companion animal would die or experience unnecessary or unjustifiable pain or suffering as a result of or due to the lack of adequate shelter.
- (f) No owner, manager, or employee of a dog kennel who confines or is the custodian or caretaker of a companion animal shall negligently do any of the following:
- (1) Torture, torment, or commit an act of cruelty against the companion animal;
 - (2) Deprive the companion animal of necessary sustenance or confine the companion animal without supplying it during the confinement with sufficient quantities of good, wholesome food and water if it can reasonably be expected that the companion animal would become sick or

suffer in any other way as a result of or due to the deprivation or confinement;

- (3) Impound or confine the companion animal without affording it, during the impoundment or confinement, with access to shelter from heat, cold, wind, rain, snow, or excessive direct sunlight if it can reasonably be expected that the companion animal would become sick or suffer in any other way as a result of or due to the lack of adequate shelter.

(g) Divisions (b), (c), (d), (e), and (f) of this section do not apply to any of the following:

- (1) A companion animal used in scientific research conducted by an institution in accordance with the federal animal welfare act and related regulations;
- (2) The lawful practice of veterinary medicine by a person who has been issued a license, temporary permit, or registration certificate to do so under Chapter 4741 of the Ohio Revised Code;
- (3) Dogs being used or intended for use for hunting or field trial purposes, provided that the dogs are being treated in accordance with usual and commonly accepted practices for the care of hunting dogs;
- (4) The use of common training devices, if the companion animal is being treated in accordance with usual and commonly accepted practices for the training of animals;
- (5) The administering of medicine to a companion animal that was properly prescribed by a person who has been issued a license, temporary permit, or registration certificate under Chapter 4741 of the Ohio Revised Code. (ORC 959.131)

(h)(1) Whoever violates division (b) of this Section is guilty of a misdemeanor of the first degree on a first offense and a felony of the fifth degree on each subsequent offense.

- (2) Whoever violates division (c) of this Section is guilty of a felony of the fifth degree.
- (3) Whoever violates division (d) of this Section is guilty of a misdemeanor of the second degree on a first offense and a misdemeanor of the first degree on each subsequent offense.
- (4) Whoever violates division (e) of this Section is guilty of a felony of the fifth degree.
- (5) Whoever violates division (f) of this Section is guilty of a misdemeanor of the first degree.
- (6)(a) A court may order a person who is convicted of or pleads guilty to a violation under this Section to forfeit to an impounding agency, as defined in section 959.132 of the Ohio Revised Code, any or all of the companion animals in that person's ownership or care. The court also may prohibit or place limitations on the person's ability to own or care for any companion animals for a specified or indefinite period of time.
 - (b) A court may order a person who is convicted of or pleads guilty to a violation under this Section to reimburse an impounding agency for the reasonably necessary costs incurred by the agency for the care of a companion animal that the agency impounded as a result

of the investigation or prosecution of the violation, provided that the costs were not otherwise paid under section 959.132 of the Ohio Revised Code.

- (7) If a court has reason to believe that a person who is convicted of or pleads guilty to a violation under this Section suffers from a mental or emotional disorder that contributed to the violation, the court may impose as a community control sanction or as a condition of probation a requirement that the offender undergo psychological evaluation or counseling. The court shall order the offender to pay the costs of the evaluation or counseling. (ORC 959.99)

Section 9: Existing Section 505.071, "Cruelty to Companion Animals" of the Codified Ordinances of the Village of Moreland Hills, be and the same is hereby repealed.

Section 10: The actions of this Council concerning and relating to the passage of this Ordinance were adopted in an open meeting of this Council and all deliberations of this Council and of any of its committees that resulted in such formal action were in meetings held in compliance with all legal requirements.

Section 11: This Ordinance is hereby declared to be an emergency measure, necessary for the immediate preservation of the public peace, health and safety of the residents of the Village and for the further reason that it is necessary to amend the Village's ordinances related to the registering, keeping, owing, and harboring of dogs and the designation of certain dogs as nuisance, dangerous, or vicious to comport with several amendments to state law.

WHEREFORE, this Ordinance shall take effect and be in force immediately upon its passage and approval by the Mayor.



Mayor

PASSED: July 11, 2018

ATTEST:



CLERK