

The following Ordinance was introduced by Councilperson Junkin at the regularly scheduled meeting of the Winnfield City Council held on January 12, 2021, and presented for adoption by Councilperson Junkin at the regularly scheduled meeting of the Winnfield City Council held on February 9, 2021, to-wit:

ORDINANCE NO. 1 of 2021

AN ORDINANCE TO AMEND ALL PARTS OF SECTION 4-44 OF THE CODE OF ORDINANCES OF THE CITY OF WINNFIELD, LOUISIANA TO REMOVE PIT BULLS AND ROTTWEILER DOGS AS A "VICIOUS DOG" BY VIRTUE OF THEIR BREED AND TO REMOVE ALL REQUIREMENTS AS TO REPORTING THE OWNERSHIP OF PIT BULLS AND ROTWEILLERS, TO REPEAL SECTION 4-45 IN ITS ENTIRETY, TO PROVIDE FOR ANY RELATED MATTERS AND PROVIDING AN EFFECTIVE DATE THEREFOR.

BE IT ORDAINED by the Mayor and City Council for the City of Winnfield, Louisiana that Section 4-44 of the Code of Ordinances of the City of Winnfield is hereby amended to provide as follows.

SECTION 4-44 DANGEROUS AND VICIOUS ANIMALS AND DOGS

- (a) **Keeping prohibited.** No owner shall keep or permit to be kept within the corporate limits of the City any fierce, savage, dangerous, wild or vicious animal or dog other than in accordance with the provisions of this section.
- (b) **Definitions.** The following words, terms and phrases, when used in this section, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning

**Animal Warden** means any person authorized by the City to enforce the provisions of this section and, without limitation, shall include all members of the police department and all officers and employees of the parish humane society.

**Enclosure** means a fence or structure at least six (6) feet in height, forming or causing an enclosure suitable to prevent entry of young children, and suitable to confine a vicious dog in conjunction with other measures which may be taken by the owner or keeper of the animal, such as tethering. Such enclosures shall be securely closed and locked at all times and shall have secure sides and a secure top attached to its sides. Such structure shall further have a secure bottom or floor attached to the sides or alternatively, have the sides embedded no less than thirty (30) inches into the ground. As an alternative, an owner may elect to provide an enclosure consisting of a six-foot-high chain link fence securely embedded no less than thirty (30) inches into the ground with an inverted forty-six (46) degree angle attachment mounted along the top of the fence with the standard three-strand barbed wire protection.

**Impounded** means taken into the custody of the City or the Parish Council or the parish humane society.

***Vicious dog means:***

- (1) Any dog that when unprovoked bites or attacks a human being or another animal either on public or private property, or in a vicious or terrorizing manner approaches any person in an apparent attitude of attack upon the streets, sidewalks or public grounds or places of this City;
- (2) Any dog with known propensity, tendency or disposition to attack unprovoked, to cause injury or to otherwise endanger the safety of human beings or domestic animals;
- (3) Any dog which attacks a human being or domestic animal without provocation;
- (4) Any dog owned or harbored primarily or in part for the purpose of dog-fighting or any dog trained for fighting.

The term "vicious dog" does not include either of the following:

- (1) A dog that has killed or caused serious injury or has attacked or injured a person while that person was committing or attempting to commit a trespass or other criminal offense on the property of the owner or keeper of the dog.
- (2) A police dog that has killed or caused injury to any person while the police dog is being used to assist one (1) or more law enforcement officers in the performance of their official duties.

**(c) *Requirements for registration and harboring***

- (1) No vicious dog shall be licensed by the City or have an existing license renewed unless the owner or keeper of the vicious dog shall meet the following requirements:
  - a. The owner or keeper of every vicious dog shall display in a prominent place on the premises on which the dog is kept a sign easily readable by members of the general public and fairly intelligible to young children, standing without the boundaries of those premises, warning that there is a vicious dog on the premises. A similar sign shall also be posted on the pen, kennel or other structure or enclosure in which the dog is housed or confined.
- (2) Prior to the issuance or renewal of a license for a vicious dog, its owner or keeper shall sign a statement attesting under oath that:
  - a. The owner or keeper shall, on or prior to the effective date of the license for which application is being made, have a suitable enclosure as require by the provisions of this section for the harboring of the vicious dog on the premises where the vicious dog will be kept or maintained;
  - b. The owner or keeper shall notify the police department within twenty-four (24) hours whenever a vicious dog is on the loose, is unconfined, has attacked another animal, or has attacked a human, has died, has been sold or given away, or has been relocated for keeping and maintenance to other premises within the corporate limits of this City. If a vicious dog has been sold or given away to someone who is a resident of this City, the owner or keeper shall also provide the police department with the name, address and telephone number of the new owner of the vicious dog.
- (3) It shall be unlawful for any person convicted of a felony to register, own, possess, keep or harbor a vicious dog; any vicious dog found in the possession of a convicted felon shall be seized and impounded immediately by the animal warden, such dog to be disposed of in accordance with law.

(d) **Control of vicious dogs.**

- (1) All vicious dogs shall be confined in an enclosure which meets the requirements set forth under the provisions of this section. It shall be unlawful for any owner or keeper to maintain a vicious dog upon any premises which does not have such a locked enclosure.
- (2) It shall be unlawful for any owner or keeper to allow any vicious dog to be outside of the dwelling of the owner or keeper or outside of the enclosure unless it is necessary for the owner or keeper to obtain veterinary care for the vicious dog, or sell or give away the vicious dog, or to comply with the commands or directions of the Animal Warden with respect to the vicious dog or for the dog to be exercised in accordance with the provisions of this section. Whenever the vicious dog is allowed outside of the owner's or keeper's dwelling or outside of its enclosure, the dog shall be securely muzzled by a muzzling device sufficient to prevent the dog from biting persons or other animals, and the dog shall be restrained with a choke collar with a leather, nylon or chain leash having a minimum tensile strength of three hundred (300) pounds and not exceed three (3) feet in length. Further, the dog shall be kept under the direct control and supervision of its owner or keeper at all times who shall always be of adequate physical size and maturity to maintain full control of the dog. The requirements of this section for the maintenance of physical control over the dog shall not be satisfied by mere chaining, roping, leashing or similar restraining of the animal to inanimate objects such as stakes, trees, posts, buildings or lines.
- (3) The owner or keeper of any dog which, subsequent to the issuance of a license by the City is found to have exhibited any of the characteristics of viciousness set forth in the definition of vicious dog in this section shall:
  - a. Within fifteen (15) days of the finding of viciousness provide an enclosure for the dog;
  - b. Within five (5) days of the finding of viciousness:
    1. Submit to the police department proof of the purchase of liability insurance coverage required under the provisions of this section;
    2. Have the animal tattooed in accordance with the provisions of this section;
    3. Display the warning sign or signs required under the provisions of this section;
    4. Sign the sworn statement under the provisions of this section; and
    5. Submit to the police department the photographs of the animal required under the provisions of this section.

Any dog alleged to have committed a vicious act shall be confined in accordance with the provisions of this section and restrained in accordance with the provisions of this section pending the final determination of the viciousness of the dog by the police department as based upon the alleged incident. A dog determined to be vicious by the police department shall be similarly confined and restrained pending its owner's or keeper's compliance with the provisions of this section.

(e) **Reporting requirements.**

- (1) The owner or keeper of any dog, whether classified as vicious or not, shall, within twenty-four (24) hours of occurrence, report to the police department any attack or threatened attack by his dog upon any human being. Such report shall contain, at minimum, the:
  - a. Owner's name and address;

- b. Name and license number of the dog;
- c. Name and address, if known, of the victim;
- d. Time and location of the attack;
- e. Date on which the dog was last vaccinated against rabies; and
- f. Name and address of the veterinarian who performed the vaccination.

Unless previously submitted, if the dog is loose or otherwise unconfined, the owner shall further submit to the police department, within the twenty-four (24) hour period, two (2) color photographs of the dog clearly depicting its color and approximate size.

- (2) a. Within twenty-four (24) hours of occurrence, the owners or keepers of any vicious dog shall submit the following reports to the police department:
  - 1. Any attack by the dog on any person or animal or any property damage caused by the dog;
  - 2. The death or removal from the City of the vicious dog;
  - 3. The new address at which the vicious dog will be kept should its owner or keeper move within the corporate limits of the City or sell, give or transfer the dog to another resident of the City.
- b. Such reports shall include the name and address of the dog's owner or keeper, the name and registration number of the dog, the date of the occurrence and, where applicable, the name and address or owner of the animal attacked, the extent of injuries inflicted, a description of the property damage caused by the dog, the name and address of the dog's new owner, the address of the present owner's new address and/or the date on which the dog was last vaccinated for rabies, and the name and address of the veterinarian who performed the vaccination.
- (3) Physicians, veterinarians, nurses and all medical treatment facilities shall report orally, with a written subsequent report, to the Chief of Police each and every incident involving an attack by any dog on any person or animal and shall report all injuries, including, but not limited to, the name and address of the victim and a description of all such injuries and the expectant treatment which may be required.

**(f) *Determination of a vicious dog; suspected dangerous dog may be impounded pending hearing.***

- (1) If the Animal Warden or a law enforcement officer has probable cause to believe that a dog is vicious, the Animal Warden or the Chief of Police, or their designated representative, shall be empowered to convene a hearing for the purpose of determining whether or not the dog in question should be declared vicious. The Animal Warden or Chief of Police, or their designated representative, shall conduct or cause to be conducted an investigation and shall notify the owner or keeper of the dog that a hearing will be held, at which time the owner may have the opportunity to present evidence why the dog should not be declared vicious. The hearing shall be held promptly before the Chief of Police and the Animal Warden no less than five (5) days nor more than ten (10) days after service of notice upon the owner or keeper of the dog. The hearing shall be informal and shall be open to the public. A determination shall be based upon a preponderance of the evidence.
- (2) After the hearing, the owner or keeper of the dog shall be notified in writing by the Chief of Police of the determination. If a determination is made that the dog is vicious, the owner or keeper shall comply with the provisions herein in accordance with a time schedule established by the Chief of Police, but in no case more than ten (10) days subsequent to the date of determination. If the owner or keeper of the dog contests the determination, he may, within five (5) days of such determination, bring a petition into City Court praying that the Court conduct its own hearing on whether or not the dog should be declared vicious.

After service upon the Animal Warden or Chief of Police, the Court shall conduct a hearing de novo and make its own determination as to viciousness. This hearing shall be conducted within seven (7) days of the service of notice upon the Animal Warden or Chief of Police. The issue shall be decided by the Court upon the preponderance of the evidence. If the Court rules the dog to be vicious, the Court may establish a time schedule to ensure compliance with this section, but in no case more than fifteen (15) days subsequent to the date of the Court's determination.

- (3) The Court may decide all issues for or against the owner or keeper of the dog, regardless of the fact that the owner or keeper fails to appear at the hearing.
- (4) The determination of the Court shall be final and conclusive upon all parties thereto. However, the Animal Warden or Chief of Police, or their designated representative, shall have the right to declare a dog to be vicious for any additional actions of the dog.
- (5) If the Animal Warden or a law enforcement officer has probable cause to believe that a dog in question is vicious and may pose a threat of serious harm to human beings or other domestic animals, the Animal Warden or law enforcement officer may seize and impound the dog pending the hearings. The owner or keeper of the dog shall be liable to the City for the costs and expenses of keeping such a dog.

**(g) *Liability of parents for damages caused by dog owned by underage person.***

If the owner or keeper of the vicious dog is an underage person, the parent or guardian of such an underage person shall be liable for all injuries and property damage sustained by any person or domestic animal caused by an unprovoked attack by the vicious dog.

**(h) *Exceptions.***

The provisions of this section, other than the reporting requirements set forth hereinabove, shall not apply to proprietors of animal hospitals located within the corporate limits of the City or to veterinarians maintaining professional offices or clinics within the corporate limits of the City who keep or maintain dangerous or vicious animals on their professional premises in the usual or normal course of their business, or to zoological, garden, theatrical exhibit or circus which possesses all licenses required by the laws of this City and State and complies with all other regulations concerning the keeping and maintaining of such animals.

**(i) *Cost.***

Any animal kept, harbored or maintained in violation of this section may be taken by the police or the animal control officers and impounded in an animal shelter and there confined in a humane manner. Impounded animals shall be kept for not less than five (5) days unless reclaimed by their owners after having paid all boarding and veterinary costs.

**(j) *Penalty.***

- (1) Any person found guilty of violating any of the provisions of this section shall, for each violation, be fined not less than two hundred fifty dollars (\$250.00), or more than five hundred dollars (\$500.00), be imprisoned for not more than sixty (60) days, or both. Each separate day on which any violation of the provisions of this section is shown to have continued to exist shall constitute a separate offense.
- (2) Additionally, the Chief of Police, may, in his sole discretion, impound a vicious dog pending compliance by the owner or keeper with the provisions of this section, particularly when a vicious dog has attacked a human being or has attempted to attack, and the owner or keeper, having known of the animal's propensities, has failed to comply with this section.

REPEALER:

BE IT FURTHER ORDAINED by the City Council of the City of Winnfield, Winn Parish, Louisiana, that all ordinances or parts of ordinances in conflict herewith are hereby repealed.

SEVERABILITY:

BE IT FURTHER ORDAINED by the City Council of the City of Winnfield, Winn Parish, Louisiana that this ordinance is deemed severable and accordingly, should any part or portion hereof be declared invalid or unconstitutional, then the rest and remainder of the ordinance which can be enforced without regard to such invalid or unconstitutional part or portion shall remain in full force and effect.

BE IT FURTHER ORDAINED by the City Council of the City of Winnfield, Winn Parish, Louisiana that Section 4-45 of the Code of Ordinances of the City of Winnfield, Louisiana is hereby repealed.

BE IT FURTHER ORDAINED that this Ordinance shall be effective on publication hereof and the expiration of the required legal delays. The above Ordinance was introduced on January , 2021. A hearing on the above Ordinance was held on February 9, 2021, at a regular meeting of the Mayor and City Council of the City of Winnfield, Louisiana, and thereafter the vote thereon was recorded as follows, to-wit:

	Aye	Nay	Abstain
Hamms:	_____	_____	_____
Holden:	_____	_____	_____
Junkin:	_____	_____	_____
Miller:	_____	_____	_____
Phillips:	_____	_____	_____

Thereupon the Mayor declared the Ordinance passed by a vote of \_\_\_ yeas and \_\_\_ nays, on the 9<sup>th</sup> day of February, 2021, at a regular meeting of the Mayor and City Council of the City of Winnfield, Louisiana.

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KATINA SMITH, CITY CLERK

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GEORGE MOSS, MAYOR