

Ordinance O-21-21

ORDINANCE AMENDING SECTIONS 9.04.010 AND 9.04.030 OF THE WAUWATOSA MUNICIPAL CODE PERTAINING TO DANGEROUS AND VICIOUS DOGS

The Common Council of the City of Wauwatosa do hereby ordain as follows:

PART I: Section 9.04.010 of the Wauwatosa Municipal Code of Ordinances is hereby amended to read in its entirety as follows:

9.04.010 - Definitions, enforcement and penalty.

A. Definitions. The following definitions will be used in the interpretation and application of this chapter:

"Dangerous dog" means any individual dog which fits into any one of the following categories:

1. Any dog which behaves in a manner that a reasonable person would believe poses a serious and unjustified imminent threat of great bodily harm or death to a person or domestic animal.
2. A dog that, without justification, bites a person or domestic animal and does not cause great bodily harm.
3. Any dog that has been declared dangerous by any agency or department of another municipality, county or state.
4. Exceptions. No dog shall be deemed "dangerous" based solely upon attacking or menacing any person or domestic animal in order to:
 - a. Defend its owner, caretaker, or another person or animal, its young or its food, from a trespasser or an attack by a person or animal,
 - b. Defend itself against any person, animal or trespasser that has provoked, tormented or abused it, or
 - c. If it is a professionally trained dog for law enforcement or guard duties, acting in the capacity for which it was trained.

"Domestic animal" includes cats, dogs, ferrets, gerbils, hamsters and domesticated rabbits.

"Great bodily harm" means bodily injury which creates a substantial risk of death, or which causes serious permanent disfigurement, or which cause a permanent or protracted loss or impairment of the function of any bodily member or organ or other serious bodily injury.

"Isolation facility" means a humane society shelter, veterinary hospital, municipal pound or other place specified by an officer which is equipped with a pen or cage which isolates the animal from contact with other animals.

"Officer" means a police officer, the city's health officer, a humane officer, a warden, a Milwaukee Area Domestic Animal Control Commission (MADACC) officer or an animal control

officer or employee designated by the governing body of the city of Wauwatosa.

"Owner" means the person, firm or entity owning, harboring, sheltering, or keeping a domestic animal. The owner or occupant of any premises on which a domestic animal remains or to which it customarily returns for a period of three days, is presumed to be harboring, sheltering or keeping such domestic animal.

"Person" means any individual, firm, corporation, society, institution, public body or any other entity.

"Trained individual" means a person certified by the Wisconsin Department of Agriculture, Trade and Consumer Protection as meeting the qualifications to observe quarantined animals in an isolation facility to determine if the animal exhibits any signs of rabies.

"Trespasser" means a person who is not the animal's owner and who does not cohabitate or reside with the owner and who enters the owner's property without consent.

"Veterinarian" means the meaning designated under Wisconsin Statutes sec. 453.02(7).

"Veterinarian involvement" means consultation to the city for the rabies control program by a Wisconsin licensed veterinarian and supervision by the veterinarian of trained individuals who conduct examinations of quarantined animals held in an isolation facility.

"Vicious dog" means any individual dog which fits into any one of the following categories:

1. Any dog which, without justification, bites or attacks a person or domestic animal and causes great bodily harm or death.
2. Any individual dog which has been previously found to be a "dangerous dog", or has a known history of bites and/or attacks and engages in behavior defined as a "dangerous dog", or
3. Any individual dog that has been declared vicious by any agency or department of another municipality, county or state.
4. Exceptions. No dog shall be deemed "vicious" based solely upon biting, attacking, or menacing any person or domestic animal in order to:
 - a. Defend its owner, caretaker, or another person or animal, its young or its food, from a trespasser or an attack by a person or animal,
 - b. Defend itself against any person, animal or trespasser that has provoked, tormented or abused it, or
 - c. If it is a professionally trained dog for law enforcement or guard duties, acting in the capacity for which it was trained.

B. Enforcement. The health and police departments shall enforce the provisions of this chapter and may make whatever investigation is necessary to insure compliance with this chapter.

C. Penalty.

1. General Penalty. Any person, firm, corporation or entity violating any provision of this chapter for which a different penalty is not otherwise specified shall be subject to the general penalty

provisions of this code in addition to other penalties provided under this section.

2. Any dog owner found to be in violation of the requirements of sec. 9.04.030 shall be subject to a forfeiture of not more than \$500 for each separate offense. Each day of continued violation constitutes a separate offense.
3. Failure to Vaccinate. Any owner who fails to have a cat, dog or ferret vaccinated against rabies as required under this chapter may be required to forfeit not less than \$50.00 nor more than \$100.00.
4. Refusal to Comply with Order or Quarantine. An owner who refuses to comply with an order issued under this chapter to deliver an animal to an officer, isolation facility or veterinarian or who does not comply with the conditions of an order that an animal be quarantined shall be fined not less than \$100.00 nor more than \$1,000.00 or imprisoned not more than sixty days, or both and subject to other penalties under Section 9.040.040.
5. Removal of Dog. Any vicious dog may be ordered impounded or removed from the city for violations of this chapter. The animal's owner shall be responsible for costs of impoundment or removal.
6. Court Order to Kill Dog. Any dog that has caused great bodily harm to a person or domestic animal on two separate occasions, without reasonable cause, may be destroyed as a result of judgment rendered by a court of competent jurisdiction, as specified under Wisconsin Statute Section 174.02 (3). The animal's owner shall be responsible for costs of destruction.

PART II: Section 9.04.030 of the Wauwatosa Municipal Code of Ordinances is hereby amended to read in its entirety as follows:

9.04.030 - Dangerous and vicious dogs.

A. Restrictions on Owners of Dangerous and Vicious Dogs.

1. Prohibition on Vicious Dogs.
 - a. It shall be unlawful for any person to keep or maintain a vicious dog within the City of Wauwatosa.
 - b. It shall be unlawful for an owner of a dog declared vicious in another municipality, county or state to bring such dog into the city.
2. Restrictions on Dangerous Dogs. No person shall keep or maintain a dangerous dog within the city of Wauwatosa unless such dog is at all times kept in an enclosure in accordance with Section 9.04.030 (3) of the code. The only times that a dangerous dog may be allowed out of the enclosure are: (1) if it is necessary for the owner or keeper to obtain veterinary care for the dog; or (2) it complies with the order for leashed and muzzled dogs, and shall be under the direct control and supervision of the owner or custodian of the dog who is competent to control and manage the dog; or (3) its owner has secured approval pursuant to Section 9.04.030(C).
3. Prohibition Against Selling or Transferring. It shall be unlawful to sell or give away or transfer ownership or custodianship of a dangerous or vicious dog without advising the

health and police departments of such, including the name and address of the person to whom the dangerous or vicious dog is given.

4. Posting a Sign.

- a. Single unit dwellings. The owner of a dangerous dog shall display in a prominent place on his or her premises a warning sign in letters no less than two inches high, stating "Beware of Dog". The sign shall be clearly visible and capable of being read from any public property, street or highway adjacent to the premises. A similar sign shall be posted on any outdoor pen or kennel or enclosure where the dangerous dog is kept.
- b. Multi-unit dwellings. The owner of a dangerous dog shall display in a prominent place on the door to their unit a warning sign in letters no less than two inches high, stating "Beware of Dog". A similar sign shall be posted on any outdoor pen or kennel to which the dangerous dog has access.

5. Liability Insurance. The owner of a dangerous dog shall purchase and maintain liability insurance in the amount of one hundred thousand dollars insuring the owner for any personal injuries or physical damage inflicted by the dangerous dog. In addition the policy of insurance shall require a minimum of ten days notice to the city of any cancellation or termination of such policy. In lieu of the liability insurance requirement, the owner of a dangerous dog may present evidence of a surety bond in the sum of at least one hundred thousand dollars, payable to any person injured or whose property has been damaged by a dangerous dog. The proof of insurance or surety bond must be presented to the city attorney each year at the time the dog's license is renewed. Requirements under this section may be waived in writing by the city attorney upon application by the animal's owner.

6. Required Notification by Owner. The owner of a dangerous or vicious dog shall immediately notify the health or police department if the dog escapes, is unconfined, has attacked another animal or human being or has died.

B. Declaration of Dangerous or Vicious Dog. Notification and Hearing.

1. Declaration of Dangerous or Vicious Dog. If an officer determines that a dog is dangerous or vicious as defined in this section, he or she may declare the dog to be a dangerous or vicious dog. The officer shall immediately inform the owner in writing, by personal service or certified mail, of such determination.
2. Hearing. If an owner contests the designation of the dog as dangerous or vicious, the owner may request a hearing in writing within thirty days of issuance of the notice. Any interested party may present evidence as to whether the dog is dangerous or vicious. The hearing shall be held within thirty days of the request for hearing before the municipal court.
3. Compliance with Restrictions. Pending the decision of the hearing, the owner must comply with provisions of Section 9.04.030 (A) and (C) if the dog is determined to be dangerous, and Sections 9.04.030(A) if the dog is determined to be vicious. After the

hearing, the owner shall be notified in writing of the determination. The officer may impose restrictions on a dog declared vicious pending arrangements for its removal.

4. Appeal. If the owner contests the determination following the hearing, he or she may appeal the determination to the circuit court and proceed in accordance with Wis. Stat. sec. 66.0114. An appeal will not stay the officer's order.

C. Restraint and Confinement of Dangerous Dogs. The health officer may determine conditions to be placed on an owner of a dangerous dog, including, but not limited to, the following:

1. Confinement. A dangerous dog shall be securely confined indoors or in a securely enclosed and locked fence or similar enclosure on the premises of the owner except when leashed and muzzled. An outdoor fence or similar enclosure must be childproof from the outside and dogproof from the inside. Any fence or enclosure must be constructed six feet high with slats not further than one inch from one another. All structures shall comply with zoning and building regulations of the city. No dangerous dog shall be kept on an unenclosed porch or patio or area of the house accessible to guests if it is unattended by its owner or person competent to govern the animal or if it is not securely leashed or confined. No dangerous dog may be kept in a house or structure when the windows are open or the screens are not sufficiently secure to prevent escape. A dangerous dog may not be required to be so confined if written approval from the health officer or police chief is obtained.
2. Leash and Muzzle. An owner of a dangerous dog may not permit the dog to go outside of its enclosure unless the dog is muzzled, secured on a leash no more than four feet in length, the leash is held by a person competent to govern the animal who is in physical control of the leash and the leash is not attached to an inanimate object. A dangerous dog may not be required to be muzzled when outside of its home, pen or kennel if written approval from the health officer or police chief is obtained.

PART III: This ordinance shall become effective on and after its date of passage and publication.

Passed and Dated September 21, 2021

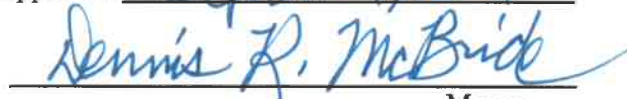


City Clerk

Introduced:

Referred to originating committee

Approved Sept. 24, 2021



Mayor

Adopted: September 21, 2021