

ORDINANCE NO. 2025-01

AN ORDINANCE OF THE CITY OF WAUCHULA, FLORIDA, AMENDING THE CITY OF WAUCHULA CODE OF ORDINANCES, SPECIFICALLY, TO REPEAL AND REPLACE SECTION 4-3, "DANGEROUS DOGS," OF CHAPTER 4 OF THE CODE OF ORDINANCES, TO MAINTAIN CONSISTENCY WITH CHAPTER 767, FLORIDA STATUTES, INCLUDING ADOPTING DEFINITIONS AND HEARING PROCEDURES CONSISTENT WITH CHAPTER 767, FLORIDA STATUTES, REPEALING ALL ORDINANCES IN CONFLICT HERewith, PROVIDING FOR SEVERABILITY, THE CORRECTION OF SCRIVENERS' ERRORS, AND AN EFFECTIVE DATE.

WHEREAS, Chapter 166, Florida Statutes, authorizes cities in the State of Florida to adopt regulations in the interest of the public health, safety, and the general welfare of the public; and

WHEREAS, Chapter 767, Florida Statutes, provides that animal control authorities, acting alone or in concert with other local government units, shall enforce the animal control laws of the city, county, and state, including those pertaining to dangerous dogs; and

WHEREAS, Section 767.14, Florida Statutes, provides that Chapter 767 does not limit local governments from adopting ordinances to address the safety and welfare concerns caused by attacks on persons or domestic animals, placing further restrictions or requirements on owners of dogs who have bitten or attacked persons or domestic animals, or developing procedures and criteria to implement Chapter 767, provided that such ordinances do not regulate on the basis of an animal's breed, weight, or size, and provided that such ordinances do not lessen the provisions of Chapter 767; and

WHEREAS, ordinances regulating the keeping, care, custody, and control of animals within the municipal limits are a valid exercise of the police powers delegated to the City to protect and maintain the health, safety, and welfare of the community and to abate nuisances; and

WHEREAS, the City of Wauchula Code of Ordinances, specifically Section 4-3 of Chapter 4, addresses dangerous dogs covered in Chapter 767; and

WHEREAS, the City Commission finds it is in the best interest of the community's health, safety, and welfare to repeal and replace Section 4-3 of Chapter 4 of the Code of Ordinances with the provisions below to maintain consistency with the most current amendments to Chapter 767, Florida Statutes, and

WHEREAS, the City Commission finds that this Ordinance serves a legitimate government purpose, provides appropriate means of animal protection and control, and is in the best interest of the public health, safety, and welfare of the City and its citizens.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COMMISSION OF THE CITY OF WAUCHULA, FLORIDA, AS FOLLOWS:

SECTION 1. RECITALS AND LEGISLATIVE FINDINGS AND INTENT. The above-stated recitals to this Ordinance are hereby incorporated into this Ordinance by the Commission as its legislative findings and the Commission's intent regarding this Ordinance.

SECTION 2. REPEAL OF SECTION 4-3, CODE OF ORDINANCES. Section 4-3, "Dangerous Dogs," in Chapter 4, Code of Ordinances of the City of Wauchula, is hereby repealed in its entirety.

SECTION 3. REPLACEMENT OF SECTION 4-3, CODE OF ORDINANCES. Section 4-3, "Dangerous Dogs," is hereby replaced in its entirety with the following:

Section 4-3, Dangerous Dogs-, Definitions, Investigation, and Hearing Procedures

(a) Definitions. The Definitions contained in Chapter 767, Florida Statutes, as may be amended from time to time, are expressly incorporated into and made a part of this Section as if fully stated herein, and shall include, but not be limited to the following:

- (1) "Animal control officer" means any individual employed, contracted with, or appointed by an animal control authority, including but not limited to, Hardee County Animal Control, Hardee County Sheriff's Office, or Wauchula Police Department, for the purpose of aiding in the enforcement of Chapter 767, Florida Statutes, or this Ordinance.
- (2) "Dangerous dog" means any dog that according to the records of the appropriate authority:
 - a. Has aggressively bitten, attacked, or endangered or has inflicted severe injury on a human being on public or private property;
 - b. Has more than once severely injured or killed a domestic animal while off the Owner's property; or
 - c. Has, when unprovoked, chased or approached a person upon the streets, sidewalks, or any public grounds in a menacing fashion or apparent attitude of attack, provided that such actions are attested to in a sworn statement by one or more persons and dutifully investigated by the appropriate authority.
- (3) "Insurance" means an insurance policy providing coverage in the minimum amount of \$100,000 that provides liability insurance for damage to persons and property caused by the dangerous dog. The

insurance shall be provided by an insurance company authorized to do business in the State of Florida, and the Owner shall provide the Wauchula Police Department evidence of a certificate of insurance and a copy of the endorsement.

- (4) "Owner" means any person, firm, corporation, or organization possessing, harboring, keeping, or having control or custody of an animal or, if the animal is owned by a person under the age of 18, that person's parent or guardian.
- (5) "Proper enclosure of a dangerous dog" means, while on the Owner's property, a dangerous dog is securely confined indoors or in a securely enclosed and locked pen or structure, suitable to prevent the entry of young children and designed to prevent the animal from escaping. Such pen or structure shall have secure sides and a secure top to prevent the dog from escaping over, under, or through the structure and shall also provide protection from the elements.
- (6) "Severe injury" means any physical injury that results in broken bones, multiple bites, or disfiguring lacerations requiring sutures or reconstructive surgery.
- (7) "Unprovoked" means that the victim who has been conducting himself or herself peacefully and lawfully has been bitten or chased in a menacing fashion or attacked by a dog.

(b) Classification of dog as dangerous; notice and hearing procedures; confinement of dog; appeal; exemptions.

- (1) An animal control officer shall investigate reported incidents involving any dog that may be dangerous and, if possible, shall interview the Owner and require a sworn affidavit from any person, including any animal control officer or enforcement officer, desiring to have a dog classified as dangerous.
- a. An animal that is the subject of a dangerous dog investigation because of severe injury to a human being may be immediately confiscated by an animal control authority, placed in quarantine, if necessary, for the proper length of time, or impounded and held. The animal may be held pending the outcome of the investigation and any hearings or appeals related to the dangerous dog classification or any penalty imposed under this section. If the dog is to be destroyed, the dog may not be destroyed while an appeal is pending. The Owner is responsible for payment of all boarding costs and other fees as may be required to humanely and safely keep the animal pending any hearing or appeal.

b. An animal that is the subject of a dangerous dog investigation which is not impounded must be humanely and safely confined by the Owner in a securely fenced or enclosed area. The animal shall be confined in such manner pending the outcome of the investigation and the resolution of any hearings or appeals related to the dangerous dog classification or any penalty imposed under this section. The address at which the animal resides shall be provided to the animal control officer. A dog that is the subject of a dangerous dog investigation may not be relocated or its ownership transferred pending the outcome of the investigation and any hearings or appeals related to the dangerous dog classification or any penalty imposed under this section. If a dog is to be destroyed, the dog may not be relocated or its ownership transferred.

(2) A dog may not be declared dangerous if:

a. The threat, injury, or damage was sustained by a person who, at the time, was unlawfully on the property or who, while lawfully on the property, was tormenting, abusing, or assaulting the dog or its Owner or a family member, or who, at the time of the attack or bite, was engaged in or attempting to engage in criminal activity. .

b. The dog was protecting or defending a human being within the immediate vicinity of the dog from an unjustified attack or assault.

(3) After the investigation, the animal control officer shall present his factual findings, in writing, and all evidence the animal control officer has collected, to the Chief of Police or his designee. Based on the written factual findings and evidence the animal control officer has presented, the Chief of Police or his designee shall make an initial determination, in writing, as to whether there is sufficient cause to classify the dog as dangerous, and if sufficient cause is found, as to the appropriate penalty under subsection (5). The Chief of Police or his designee shall afford the Owner an opportunity for a hearing before the City's hearing officer prior to making a final determination regarding the classification or penalty. The Chief of Police or his designee shall provide written notification of the sufficient cause finding and proposed penalty to the Owner by registered mail, certified hand delivery, or service in conformance with the provisions of chapter 48 relating to service of process. The Owner may file a written request for a hearing before the City's hearing officer regarding the dangerous dog classification, penalty, or both, within 7 calendar days after the Owner's receipt of the notification of the sufficient cause finding and proposed penalty. If the Owner requests a hearing, the hearing shall be held as soon as possible, but not later than 21 calendar days and not sooner than 5 days after receipt of the request from the Owner. The hearing officer shall conduct a de novo hearing to receive evidence and testimony. All testimony at the hearing must be

under oath and must be recorded. The hearing officer must review any photographs, videos, or other evidence presented. Formal rules of evidence do not apply, but due process must be observed and govern the proceedings. The hearing officer must issue a final administrative order that including findings as to the determination that the Owner's dog should be classified as a dangerous dog under Chapter 767, Florida Statutes, and proposed penalty within 21 days of the hearing. Such decision shall be in the form of a written order recorded with the city clerk. If a hearing is not timely requested regarding the dangerous dog classification or proposed penalty, the determination of the Chief or Police or his designee as to such matter shall become final.

(4) Upon a dangerous dog classification and penalty becoming final after a hearing or by operation of law pursuant to subsection (3), the Chief of Police or his designee shall provide a written final order to the Owner by registered mail, certified hand delivery or service in conformance with the provisions of chapter 48 relating to service of process. The Owner may appeal the classification, penalty, or both, to the circuit court in accordance with the Florida Rules of Appellate Procedure after receipt of the final order. If the dog is not held by the animal control authority, the Owner must confine the dog in a securely fenced or enclosed area pending resolution of the appeal.

(5) a. Except as otherwise provided in paragraph b., below, the Owner of a dog classified as a dangerous dog shall:

1. Within 30 days after issuance of the final order classifying the dog as dangerous or the conclusion of any appeal that affirms such final order, obtain a certificate of registration for the dog from the Wauchula Police Department, and renew the certificate annually. The fee for the issuance of a certificate of registration is \$240.00, and the fee for annual renewals required by this section is \$240.00. If the dog has been impounded during the pendency of dangerous dog investigation and remains impounded at the time the final order is issued, the Owner must obtain a certificate of registration, including paying the registration fee, and pay all boarding costs and other fees incurred in keeping the animal pending any hearing or appeal before the Wauchula Police Department will release the dog to the Owner. The Wauchula Police Department shall issue such certificates of registration, and renewals thereof, only to persons who are at least 18 years of age and who present to sufficient evidence of:

(i) A current certificate of rabies vaccination for the dog.

(ii) Proof of a Proper Enclosure to confine a dangerous dog and the posting of the premises with a clearly visible

warning sign at all entry points which informs both children and adults of the presence of a dangerous dog on the property. Wauchula Police Department must inspect and approve of the form and placement of the signs on the property before issuance of the registration and any renewals. The Owner must also provide proof of ownership of the property on which the Proper Enclosure is located, or proof of permission from the Owner of the property on which the Proper Enclosure is located.

(iii) Proof of Insurance as defined in this Ordinance.

(iv) Proof that the dog has been surgically sterilized by a licensed veterinarian.

(v) Proof of permanent identification of the dog, such as a tattoo on the inside thigh or electronic implantation.

2. Additionally, the Owner must immediately notify the Wauchula Police Department when the dog:

(i) Is loose or unconfined.

(ii) Has bitten a human being or attacked another animal.

(iii) Is sold, given away, or dies.

(iv) Is moved to another address.

Before a dangerous dog is sold or given away, the Owner shall provide the name, address, and telephone number of the new owner to the animal control authority. The new owner must comply with all of the requirements of this section and implementing local ordinances, even if the animal is moved from one local jurisdiction to another within the state. The animal control officer must be notified by the Owner of a dog classified as dangerous that the dog is in his or her jurisdiction.

3. A dog classified as dangerous must not be outside of a proper enclosure unless the dog is muzzled and securely restrained by a chain or leash of not more than four feet and under control of a competent person over the age of 18. No dog classified as dangerous may be chained, tethered, or otherwise tied to any inanimate object, such as a tree, post, or building that is outside of its proper enclosure. The muzzle must be made in a manner that will not cause injury to the dog or interfere with its vision or respiration but will prevent it from biting a person or animal. The Owner may exercise the dog in a securely fenced or enclosed area that does not have a top, without a muzzle or leash, if the dog remains within his or her sight and only members of the

immediate household or persons 18 years of age or older are allowed in the enclosure when the dog is present. When being transported, such dogs must be safely and securely restrained within a vehicle.

b. If a dog is classified as a dangerous dog due to an incident that causes severe injury, as defined in Chapter 767, Florida Statutes, to a human being, based upon the nature and circumstances of the injury and the likelihood of a future threat to the public safety, health, and welfare, the dog may be destroyed in an expeditious and humane manner as permitted by section 767.12(5)(b), Florida Statutes, as may be amended.

(6) Hunting dogs are exempt from this section when engaged in any legal hunt or training procedure. Dogs engaged in training or exhibiting in legal sports such as obedience trials, conformation shows, field trials, hunting/retrieving trials, and herding trials are exempt from this section when engaged in any legal procedures. However, such dogs at all other times in all other respects are subject to this and local laws. Dogs that have been classified as dangerous may not be used for hunting purposes.

(c) Attack or bite by a dog that previously has been classified as a Dangerous Dog, impoundment, destruction.

If a dog that previously has been classified as a dangerous dog bites a person or domestic animal without provocation, Wauchula Police Department shall immediately impound the dangerous dog, placing it in quarantine if necessary, and the dog shall be euthanized in a humane and expeditious manner ten business days after written notice is provided to the Owner. During the ten-business day period, the Owner may notify the Wauchula Police Department in writing of a request for a hearing in accordance with section 4-3(b)(3) above. The Owner shall be responsible for paying all boarding costs and other fees as may be incurred to humanely and safely keep the dog during any appeal process.

(d) Death of a human by dog, impoundment, destruction.

If a dog attacks and causes the death of a human, regardless of whether that dog previously has been classified as a dangerous dog, Wauchula Police Department shall immediately impound the dangerous dog, placing it in quarantine if necessary, and after written notice to the Owner, the dog shall be euthanized in a humane and expeditious manner after ten business days. During the ten-business day period, the Owner may notify the Wauchula Police Department in writing of a request for a hearing in accordance with section 4-3(b)(3) above. The Owner shall be responsible for paying all boarding costs

and other fees as may be incurred to humanely and safely keep the dog during any appeal process.

(e) Additional charges

Nothing in this Ordinance shall preclude criminal charges under Florida law.

(f) Offspring of impounded dogs

If a dog who is impounded under this Ordinance gives birth to offspring during the impoundment, the Wauchula Police Department shall provide the Owner written notice that the offspring have been born. The Owner shall be entitled to claim the puppies when, in the judgment of the animal control authority, the puppies are appropriately weaned. The Owner may claim the offspring within 14 days of receipt of the notice that the offspring are weaned and ready to be claimed, in advance, by cash or certified check payable to the City of Wauchula, the estimated cost to board the puppies and the mother, including payment of any associated medical costs or fees. If the puppies are not claimed during the 14-day period, then they shall be considered abandoned and ownership shall revert to the Wauchula Police Department.

(g) Violations of this Ordinance

A person who violates any provision of this Ordinance commits a noncriminal infraction, punishable by a fine of \$500.

SECTION 4. SEVERABILITY. If any provision of this ordinance is for any reason held to be invalid or unconstitutional by any court of competent jurisdiction, such provision and such holding shall not affect the validity of any other provision, and to that end, the provisions of this ordinance are hereby declared severable.

SECTION 5. REPEAL OF CONFLICTING ORDINANCES All ordinances or parts of ordinances in conflict herewith are hereby repealed to the extent of such conflict.

SECTION 6. INCLUSION IN THE CODE. It is the intent of the City Commission that the provisions of this Ordinance shall become and be made a part of the City's Code of Ordinances, including the Unified Land Development Code.

SECTION 7. EFFECTIVE DATE. This Ordinance shall become effective immediately upon its enactment.

On Motion of Commissioner _____, seconded by Commissioner _____, the above resolution was introduced and approved by the City Commission of the City of Wauchula, Florida, on the _____ day of _____, 2025.

(SEAL)

ATTEST:

CITY OF WAUCHULA, FLORIDA

Stephanie Camacho, City Clerk

By: _____
Richard Keith Nadaskay, Jr., Mayor

APPROVED AS TO FORM:

Kristie Hatcher-Bolin, City Attorney

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