

RESOLUTION NO. 2021-7

A RESOLUTION STATING THE GOVERNING BODY'S FINDINGS FOLLOWING HEARING ON ITS JULY 19, 2021, ORDER TO ABATE NUISANCE

I. Decision

Be it resolved by the governing body of the City of LeRoy, Kansas, that Charlie and Julie Patterson's dog Spike is a nuisance and a vicious dog. No person is allowed to own or in any way possess Spike within the corporate limits of the city. If Spike is found within the city's corporate limits, Spike may be impounded as provided by law. The cost of impoundment shall be charged to Spike's owner or any other person who possesses or has custody of Spike.

II. Procedure

On July 19, 2021, the governing body, by resolution, ordered Charlie and Julie Patterson to abate a nuisance by immediately removing Spike from the city. Charlie and Julie Patterson were personally served with that Order on July 20, 2021. On or about July 28, 2021, Charlie and Julie Patterson requested a hearing on the order. On August 3, 2021, the city advised Charlie and Julie Patterson of the time and place of the hearing at least five days in advance and scheduled the hearing to be heard on August 9, 2021. The hearing was continued to August 11 by agreement. Attorney Daniel Schowengerdt represents Charlie and Julie Patterson. At the August 11 hearing, evidence was presented and arguments heard. The governing body, being fully informed, makes the following findings of fact.

III. Findings of Fact

1. Charlie and Julie Patterson reside at 225 S. Main St. LeRoy, KS.
2. Charlie and Julie Patterson are the owners of the dog shown in Exhibit A. The dog shown in Exhibit A is named "Spike."
3. On June 12, 2021, Spike ran at large, entered Chanda Acklin's property, attacked, and injured Ms. Acklin's dog named "Molly."
4. Spike's attack on Molly was vicious, leaving wounds that were deep and unusually violent.
5. Spike threatens or endangers the health or well-being of persons or other animals.
6. Spike has caused injury, annoyance, or inconvenience to the public.
7. On or before June 12, 2021, Charlie and Julie Patterson knew or had reason to know that Spike has a propensity, tendency, or disposition to endanger the safety of human beings.
8. On July 31, 2021, Spike was running at large within the city

- 9. Spike is a nuisance.
- 10. Spike is a vicious dog.

IV. Statements of Law

- 1. It is unlawful for any person to maintain or permit any nuisance within the city. City Code § 8-201.
- 2. A nuisance includes any animal that attacks or injures other animals. City Code § 2-111(b)(2).
- 3. A nuisance includes any animal that damages private property other than that of its owner by its activities. City Code § 2-111(b)(3).
- 4. A nuisance includes all things whatsoever kept by any person to the injury, annoyance, or inconvenience of the public or any neighborhood. City Code § 8-201(g).
- 5. The governing body of the city may, by resolution, determine what a nuisance is. 12-1617e(a).
- 6. The governing body of any city may have removed or abated from the city any and all nuisances. K.S.A. 12-1617e(a); City Code § 8-201 *et seq*
- 7. It is unlawful to own, or in any way possess, a vicious dog within the city's corporate limits. City Code § 2-115(a)(1).
- 8. A vicious dog is defined, *inter alia*, as "any dog the owner or custodian of knows or has reason to know has a propensity, tendency or disposition to attack unprovoked, to cause injury or to otherwise endanger the safety of human beings." City Code § 2-115(a)(1)(C).

V. Summary

Charlie and Julie Patterson are **Ordered** to remove their dog Spike from the City of Leroy. No person is allowed to own, or in any way possess, Spike within the corporate limits of the city.

Passed by the council the 11th day of August, 2021. APPROVED by the Mayor

ATTEST: Nikki Houston
Nikki Houston, City Clerk

Christine Williams
Christine Williams, Mayor