

TOWN OF EAST MONTPELIER
ANIMAL-DOG AND WOLF-HYBRID CONTROL ORDINANCE

Section 1. Authority

~~This ordinance is adopted by the selectboard of the Town of East Montpelier under authority of 20 V.S.A. § 3549, 24 V.S.A. §§ 2291 (10), (14), and (15), and 24 V.S.A. Chapter 59. The Selectboard of East Montpelier, Vermont acting under the authority of 20 VSA Sec. 3549 et. seq. and 24 VSA Sec. 2291 (10) et. seq. hereby adopts and ordains the ordinance regarding certain *animals* in the Town of East Montpelier. Pursuant to 24 VSA Sec. 971 this ordinance is a civil ordinance and shall be enforced in accordance with provision of 24 VSA Sec. 1974 (a) et. seq.~~

~~20 V.S.A. Section 3621 and 24 VSA S1971-1972, 2291(10), (14) and (15)~~

Section 2. Purpose

~~It is the purpose of this ordinance to regulate the keeping of dogs and wolf hybrids and to provide for their leashing, muzzling, restraint, impoundment and destruction and their running at large, so as to protect the public health and safety of the Town and the quiet enjoyment of its residents' homes and properties. This ordinance is adopted to protect and preserve the health, safety and general welfare of the citizens of East Montpelier.~~

Section 3. Persons Covered

~~This ordinance applies to any person who owns a *dog* or *wolf-hybrid* and/or any person who has actual or constructive possession of a *dog* or *wolf-hybrid*.~~

Section 4. Definitions

~~*a. Animal* means any *dog* or *wolf-hybrid*.~~

~~*b. Dog* means any member of the canine species (1193964469 *Canis familiaris* ANIS-FAMILIARIS). For purposes of this ordinance, this term, wherever used, shall also include “*wolf-hybrids*” and “*working farm dogs*” except where specifically exempted.~~

~~*c. Owner* means any person who owns a *dog* or *wolfhybrid*, and/or any person who has actual or constructive possession of a *dog* or *wolfhybrid* The term also includes those persons who provide food and shelter to a *dog* or *wolfhybrid*.~~

~~*d. “Potentially vicious dog”* means a *dog* running at large that inflicts minor injuries on a person not necessitating medical attention; chases, threatens to attack or attacks another domestic pet or animal as defined in 20 V.S.A. § 3541; causes damage to personal property; chases a person; or causes any person to reasonably fear attack or bodily injury from such dog. This definition shall not apply if the dog was protecting or defending itself, its offspring, another domestic pet or animal or a person from attack or assault or the person attacked or threatened by the dog was engaged in teasing, tormenting, battering, assaulting, injuring or otherwise provoking the dog.~~

~~*e. Wolfhybrid* means any *animal* that is the progeny or descendant of a domestic dog and wolf (*Canis lupus* or *Canis rufus*). *Wolfhybrid* also means any *animal* which is~~

advertised, registered, licensed or otherwise described or represented as a *wolf hybrid* by its *owner*, or an *animal* which exhibits primary physical and/or behavioral wolf characteristics as described by the rule of the Commissioner of Agriculture.

f. "Working farm dog" means a dog that is bred or trained to herd or protect livestock or poultry or to protect crops and that is used for those purposes and that is registered as a working farm dog pursuant to State law.

g. Notice means a written *notice* either delivered or mailed by registered or certified mail, return receipt requested to the *owner's* last known address. Such written NOTICE, if mailed, shall be deemed to have been received by the *owner* at 6:00 p.m. on the first business day after mailing.

h. Animal Control Officer means the person or persons appointed by the Selectboard to police and enforce the Ordinance in cooperation with the appropriate law enforcement agencies.

i. Officer(s) means any police officer, game warden, sheriff, constable, the Town Animal Control Officer, the Town pound keeper, or any member of the Selectboard if none of the aforementioned officers are immediately available.

Section 5. Prohibition Against Roaming

~~An owner of an animal shall not allow or permit such animal to roam. An animal is deemed to be roaming at any time when it is not:~~

- ~~1. On a leash, or~~
- ~~2. On or within a vehicle, or~~
- ~~3. On the property premises of its owner, or~~
- ~~4. On the property premises of another with the consent of that property owner, or~~
- ~~5. Clearly under the verbal or non-verbal command of the owner, or~~
- ~~6. Hunting with the owner.~~

Section 6. Prohibition Against Creating a Nuisance

An owner of an *animal* shall not allow or permit such *animal* to create a nuisance. The term "nuisance" means any of the following activities:

1. Being on lands other than those of the *animal's owner* without the consent of that property owner, and while there, damages property, threatens or injures any person, animal or livestock.
2. Posing a threat (by barking, snarling, snapping, or biting) to the physical safety of persons using adjacent lands or public right-of-ways.
3. Disturbing the quiet of any person by habitually crying, barking or howling for a continual period of more than 15 minutes, day or night. This section may be acted upon notification in writing by one complainant and one witness by any of the Officers listed in Section 4g. Complainant shall make a reasonable attempt to contact animal owner before contacting the Town. This regulation shall not apply to dogs in a kennel/boarding facility which has received a zoning permit under the

Town's Zoning Regulations. The zoning permit will govern the use of the kennel / boarding facility.

4. A dog that defecates in any public area or on the private premises of another person and whose owner does not immediately remove the fecal material and dispose of it in a sanitary manner.
5. A female dog in heat not confined to a building or other secured enclosure, except while under the direct control of the owner.
6. The provisions of this section pertaining to running at large and disturbing the quiet, comfort and repose of others shall not apply to working farm dogs if:
 1. the working farm dog is barking in order to herd or protect livestock or poultry or to protect crops; or
 2. the working farm dog is running at large in order to herd or protect livestock or poultry or to protect crops.

Section 7. Licensing of *AnimalDog*

Every *animaldog* within the Town of East Montpelier shall be licensed annually in accordance with Chapter 193 Title 20 of VSA as amended. The *owner* of such *animaldog* shall cause it to wear a collar, and attached thereto, a license tag issued by the Town Clerk. It is suggested that each *animaldog* wear a tag stating the name of the *animaldog*, and the name, phone number and address of the *owner(s)*. *A dog that is visiting from out of state must wear a collar or harness with a current license from its home state attached.*

Section 8. Complaint Issuance/Impounding

1. It is the intent of this ordinance to resolve a complaint at the lowest possible level. Where appropriate, the Animal Control Officer shall issue a written warning prior to issuance of a formal violation notice and the party(s) encouraged to resolve the problem directly.
2. Upon complaint to the Animal Control Officer or Selectboard by any person about a ~~dog~~ *animal* that may be roaming or creating a nuisance, the Animal Control Officer will investigate. The Animal Control Officer shall make every effort to contact the *Owner(s)* of the *animaldog*/s. Upon verification of the complaint the *animaldog* that is deemed to be roaming or creating a nuisance may be impounded by the Animal Control Officer. *Any dog that is determined by the Animal Control Officer be a potentially vicious dog, which presents an imminent danger to people or other animals, has reportedly bitten a person off the premises of its owner, or is in violation of State licensing law or 20 V.S.A. § 3806 may be immediately impounded.*
- 3.

4. Any *animaldog* so impounded shall be transported to an impounding facility wherein it shall be kept until proof has been provided that such *animaldog* is currently vaccinated for rabies has been provided and payment of established impounding facility's fees has been submitted to the impounding facility. The *owner* of any *animaldog* so impounded shall be notified of the impoundment by the Animal Control Officer, provided the *animaldog* is wearing a reasonable means of identification.
5. Any *animaldog* impounded for more than 10 days after receipt of NOTICE by the *owner*, may be delivered to the local chapter of the Humane Society and thereafter subject to its policies and procedures.
6. A person claiming a dog is a "potentially vicious dog" may file a written complaint with the selectboard. The complaint shall contain the time, date and place where the alleged behavior occurred, an identification of the domestic pet or animal threatened or attacked, the name and address of any victim or victims, and any other facts that may assist the selectboard in conducting its hearing.
7. Upon receipt of a "potentially vicious dog" complaint" the selectboard shall proceed as in the case of a "vicious dog" complaint with the exception that if the selectboard determines that the behavior classifies the dog as "potentially vicious" the selectboard may order any protective measures be taken absent the dog being humanely destroyed.

SECTION X. NOTICE OF IMPOUNDMENT AND RELEASE FROM IMPOUNDMENT.

A. The officer who impounds a dog shall, within twenty-four (24) hours, give notice to the owner thereof, either personally, by telephone call, or by written notice at the owner's dwelling. Such notice shall inform the owner of the nature of the violations, the location of the dog and the steps that are necessary to have it returned to the owner.

B. If the owner of the dog is unknown, the officer who impounds a dog shall, within twenty- four (24) hours of impoundment post a public notice. Notification shall be posted in the town clerk's office and other usual places for public notice for a ten (10) day period.³⁴ The public notice shall include a description of the dog, including any significant marks of identification, when and where it was impounded or found by the person placing the dog in the town's custody, and declare that unless the owner claims the dog and pays all expenses incurred by the town for treatment, boarding and care of the dog, any applicable penalties and takes all necessary remedial action within ten (10) days following posting, the town may place the dog in an adoptive home, transfer it to a humane society or rescue organization. If the dog cannot be placed in an adoptive home or transferred to a humane society or rescue organization, it may be destroyed in a humane way.

C. Impounded dogs shall be released to the owner only after payment of all penalties and impoundment fees (including but not limited to boarding, food, and veterinary expenses), the final disposition of a potentially vicious dog or vicious dog hearing if applicable, and after all necessary remedial action is taken by the owner. Remedial action shall include,

but is not limited to, such actions as providing a collar and current license, and verification of certification of current vaccination against rabies.

D. If the owner of a dog impounded under the provisions of this ordinance refuses to take the remedial action necessary to secure the dog's release within ten (10) days following notice of impoundment or gives notice either personally, by telephone call, or in writing to the town of forfeiture of ownership before that time, the dog may be placed in an adoptive home, transferred to a humane society or rescue organization, or if the town is unable to transfer the dog it may be humanely destroyed. The owner of a dog transferred or humanely destroyed shall remain liable for all expenses incurred by the Town for treatment, boarding and care of the dog for the duration of its impoundment and any expenses associated with its transfer or humane disposal.

E. The procedures provided in this section shall only apply if the dog is not a rabies suspect. If an official designated by the selectboard to enforce the provisions of this ordinance determines that the dog is a rabies suspect, the selectboard shall immediately notify the Town Health Officer who shall proceed in accordance with the rules of the Vermont Department of Health.

8.

SECTION X. ENFORCEMENT. The violation of this ordinance shall be a civil matter which may be enforced in the Vermont Judicial Bureau or in the Washington County Superior Court, at the election of the Town of East Montpelier.

Violations enforced in the Judicial Bureau shall be in accordance with the provisions of 24 V.S.A. §§ 1974a and 1977 et seq. For purposes of enforcement in the Judicial Bureau, [the constable/ police/animal control officer/humane officer] shall be the designated enforcement officer(s). The enforcement officer shall issue tickets and may be the appearing officer at any hearing.

Violations enforced in the Superior Court shall be in accordance with the Vermont Rules of Civil Procedure. The Town of East Montpelier may pursue all appropriate injunctive relief.

Section 9. Penalties

7. This is a civil ordinance. The Selectboard may appoint and from to time to time, as is their pleasure, may remove an Animal Control Officer. The Animal Control Officer shall be an official authorized to issue notices of violation of this ordinance. Any law enforcement officer is also hereby designated as an issuing official who may issue notices of violations of this ordinance.
8. The following civil penalties are hereby imposed for violation of this ordinance:

First violation of this ordinance	\$40
Second violation of this ordinance	\$80

Third and subsequent violations of this ordinance

Impoundment & impoundment costs, any remedial action as required by the enforcement officer, plus \$120 penalty.
\$120

The oldest violation shall be deleted from the *owner* 's record for the purposes of calculating the foregoing penalties and the waiver set forth if the *owner* completes twelve (12) violation free months. For purposes of calculating the sequence of offenses, offenses shall be counted against the owner.

- 7. Beginning with the date of the violation notice, each day a violation continues shall constitute a separate violation.
- 8. Any owner whose dog has been impounded for its initial third offense shall provide the selectboard with proof of satisfactory completion of a responsible dog owner training course pre-approved by the selectboard within 6 months of the anniversary date of impoundment. Failure to provide such certification may result in forfeiture of the offending animal.
- 9. In cases where violations of this ordinance were brought to the Judicial Bureau and where the violation is admitted or not contested, in lieu of the above stated penalties, the following waiver penalties are imposed:

First violation of this ordinance	\$36
Second violation of this ordinance	\$72
Third and subsequent violations of this ordinance	_____ \$108

- 5. In addition to any other remedy provided in this ordinance or available at law or in equity, the Town Selectboard may institute a cease and desist order to prevent, restrain or abate violation of this ordinance.

Impoundment costs and pre-approved responsible owner training programs shall be set annually by the selectboard.

SECTION X. INVESTIGATION OF VICIOUS DOGS.

- A. When a dog has bitten a person while the dog is off the premises of its owner or keeper,

and the person bitten requires medical attention for the attack, such person may file a written complaint with the selectboard of the municipality. The complaint shall contain the time, date and place where the attack occurred, the name and address of the victim or victims, and any other facts that may assist the selectboard in conducting its investigation.

B. The selectboard, within seven (7) days from receipt of the complaint, shall investigate the charges and hold a hearing on the matter. If the owner of the dog which is the subject of the complaint can be ascertained with due diligence, said owner shall be provided with a written notice of the time, date and place of hearing and a copy of the complaint.

C. If the dog is found to have bitten the victim without provocation, the selectboard shall make such order for the protection of persons as the facts and circumstances of the case may require, including, without limitation that the dog is disposed of in a humane way, muzzled, chained, or confined. The order shall be sent by certified mail, return receipt requested to the owner. A person who, after receiving notice, fails to comply with the terms of the order shall be subject to the penalties provided in 20 V.S.A. § 3550.

D. The procedures provided in this section shall only apply if the dog is not a rabies suspect. If a member of the selectboard or a municipal official designated by the selectboard determines that the dog is a rabies suspect, the provisions of Subchapter 5 of Title 20 Chapter 193 and the rules of the Vermont Department of Health shall apply. If the dog is deemed healthy, the terms and conditions set forth in the selectboard's order shall be enforced.

Section 9. Other Laws

9. This ordinance is amended and in addition to other ordinances enacted by the Town of East Montpelier.
10. This ordinance shall not be construed, as waiving the Town's right of enforcement with regard to any State statute that regulates the *owner* of an *animal dog*. This ordinance is in addition to, and not a substitution for any such statutes.

SECTION X. SEVERABILITY. If any section of this ordinance is held by a court of competent jurisdiction to be invalid, such finding shall not invalidate any other part of this ordinance.

SECTION X. EFFECTIVE DATE. This ordinance shall become effective 60 days after its adoption by the selectboard. If a petition is filed under 24 V.S.A. § 1973, that statute shall govern the taking effect of this ordinance.

Date: March 1, 2010

Amended: