

# TOWN OF WEST FAIRLEE DOG ORDINANCE

**Originally Adopted: October 7, 1996**

**Revised/Reviewed: August 2019**

**SECTION 1. AUTHORITY.** This ordinance is adopted by the Selectboard of the town of West Fairlee under authority of 20 V.S.A. § 3549, 24 V.S.A. §§ 2291 (10) and 2291 (14 & 15), and 24 V.S.A. Chapter 59.

**SECTION 2. PURPOSE.** It is the purpose of this ordinance to regulate the keeping of dogs [and wolf hybrids] and to provide for their licensing, 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.

**SECTION 3. DEFINITIONS.** For purposes of this ordinance, the following words and/or phrases shall apply:

a. **“Dog”** means any member of the canine species, including wolf hybrid (*Canis lupus* or *Canis rufus*).

b. **“Enforcement Officer”** means any Town Constable, Police Officer, Animal Control Officer, Humane Officer, or any other person designated as an Enforcement Officer by the Selectboard.

c. **“Owner”** means any person who has actual or constructive possession of a dog. The term also includes those persons who provide food and shelter to a dog.

d. **“Running at large”** means that a dog is not:

1. on a leash;
2. in a vehicle;
3. on the owner's property;
4. on the property of another person with that person's permission;
5. clearly under the verbal or non-verbal control of the owner; or
6. hunting with the owner.

e. **“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.

d. **“Vicious dog”** means a dog that attacks any person or causes any person to reasonably fear attack or bodily injury from such animal, *unless* the person is trespassing on the property of the owner of the animal. The term shall also mean any animal that, while running at large, attacks another domestic pet or domestic animal, as defined in 20 V.S.A. § 3541. See Section 12 below.

**SECTION 4. GENERAL PROVISIONS.** Each person owning and/or keeping an animal or animals within the Town of West Fairlee shall bear sole responsibility for the actions of his or her animal(s). The owner or keeper shall be held responsible for preventing his or her animal(s) from becoming a nuisance,

as defined below, and shall be responsible for payment of all damages and expenses caused by his or her animal(s), including impoundment fees.

Under this section, an animal is causing a nuisance, or is a menace to persons or property, under any of the following conditions:

1. If it runs at large off the premises of the owner on any public or private property.
2. If it barks or howls continuously for sustained periods of time (30 minutes or more), causing annoyance to persons.
3. If the dog damages or destroys property, spreads garbage, defecates on private property or maintained public areas and the person responsible refuses to remove fecal matter, or if it chases vehicles, game, domestic animals, or humans.
4. While it runs at large, it bites, attacks or otherwise menaces persons using the streets or sidewalks.
5. If a bitch is unconfined while in heat.

**SECTION 5. LICENSE AND COLLAR.** Each dog shall be licensed according to the laws of the State of Vermont and shall wear a collar or harness with the current license attached.

A dog that is visiting from another State, Town, or being “fostered” through an organization actively and specifically engaged in adoption and placement of dogs, must wear a collar or harness with a current license and rabies tags attached. A dog that is found without a collar or harness and license shall be immediately impounded under authority of 20 V.S.A. § 3806 and shall be managed under the provisions of that statute.

All dogs must be licensed with the Town Clerk prior to April 1 of each year. Late registration between April 1 and April 31 is subject to a 50% additional fee per dog assessed by the Town Clerk.

On May 1, the Town Clerk will turn over a list of known unlicensed dogs to the Selectboard. After May 1, late registration will be subject to a \$25.00 penalty per dog in addition to the regular fee. Failure to register dog(s) following notice by the Selectboard will make owners subject to enforcement through Vermont Judicial Bureau.

**SECTION 6. HUMANE CARE OF DOGS.** All dogs shall be furnished with clean and safe facilities sufficient to protect the animal and the public health. Any dog determined by an animal control officer to be without such clean and safe facilities may be impounded.

**SECTION 7. ENFORCEMENT.**

A. The Selectboard may appoint an Animal Control Officer to carry out and enforce the provisions of this ordinance. In the event that the position of Animal Control Officer is vacant, all complaints will be handled by the Selectboard who may employ temporary qualified staff to catch or restrain animals, to transport and/or impound animals or to cause animals to be destroyed, which actions shall be in compliance with the provisions of this ordinance. References to the Animal Control Officer shall include the Selectboard and any other qualified staff when they are acting as Animal Control Officers.

B. The Animal Control Officer shall have one or more of the following administrative alternatives at their disposal:

1. A verbal warning.
2. A written warning, to alert an owner that his/her animal is in violation of a provision(s) of this ordinance.
3. A citation for violation shall be \$50.00. A second violation and subsequent citations up to a \$100 fine. (see Section 9 on Payment of Fines and Waivers for Non-contested Violations.)
4. An order to restrain the animal. Such order shall be in writing and a copy shall be delivered to the Selectboard.
5. Temporary impoundment of the animal, until such time as its owner can be located. This will result in a \$50.00 impoundment fee if the Animal Control Officer goes out to collect the animal.
6. An Order of Confinement for biting animals or bitches in heat.
7. Such other action as the Selectboard shall determine.

The violation of this ordinance shall be a civil matter which may be enforced in the Vermont Judicial Bureau or in the Orange County Superior Court, at the discretion of the Selectboard. 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, animal control officer or Selectboard shall be the designated enforcement officer(s). The enforcement officer may impound a dog running at large, may issue tickets and may be the appearing officer at any hearing.

Impounded dogs are subject to an initial impoundment fee of \$50 and daily boarding/kenneling fees in a schedule set by the Selectboard. Violations enforced in the Superior Court shall be in accordance with the Vermont Rules of Civil Procedure. The Town of West Fairlee may pursue all appropriate injunctive relief.

**SECTION 8. PENALTIES AND COSTS.** A civil penalty may be imposed for violation of this ordinance. Each day that the violation continues shall constitute a separate violation of this ordinance. All notifications of violations shall be in writing and delivered in person or by certified mail. Imposition of penalties is at the discretion of the Animal Control Officer and will depend upon seriousness of offense and cooperation of dog owner to take remedial action.

Penalties and costs for failure to license dogs is described above under Section 7. Special procedures for dogs deemed to be “vicious” or “potentially vicious” are described in Section 11. Penalties and costs for other violations of this ordinance may be imposed as follows at the discretion of the Animal Control Officer and/or Selectboard:

A. Initial offense – depending on offense, violators may receive warning letter and copy of dog ordinance; or Violators shall receive a letter specifying remedial action required by the enforcement officer or Selectboard, and may be assessed a penalty of \$50.00 (\$25.00 waiver penalty)

B. Subsequent offense –Violators shall receive a certified letter specifying remedial action required by the enforcement officer or Selectboard , and may be assessed a penalty of up to \$100.00 (\$50.00 waiver penalty).

D. For purposes of determining the sequence of offenses, initial and subsequent offenses shall be those that occur within the 12-month period of the anniversary day of the first offense. Any offense occurring after this 12-month period shall be considered a new first offense.

E. For purposes of calculating the sequence of offenses, offenses shall be counted against the owner not a particular dog.

F. Impoundment fees shall be set by the Selectboard and may be revised from time to time by simple resolution at a duly warned Selectboard meeting.

**SECTION 9. PAYMENT OF FINES, WAIVER FOR NON-CONTESTED VIOLATIONS AND COLLECTION BY THE VERMONT JUDICIAL BUREAU.**

The Selectboard may establish waiver fines for each violation. All fines must be paid within 35 days of issuing of a citation. A waiver of one half of the fine will be made if the fine is paid to the Treasurer, Town of West Fairlee within 21 days from mailing or receipt of the citation. If the fine has not been paid after 35 days, a Traffic and Municipal Court Citation will be issued for collection of the full fine.

In addition to the penalties provided in this section, any animal found in violation of this ordinance may be impounded as provided in Section 10 of this ordinance and the owner will incur additional expenses.

**SECTION 10. IMPOUNDMENT AND RELEASE FROM IMPOUNDMENT.** Dogs in violation of any provision of this ordinance may be taken by the Animal Control Officer, impounded, and confined in a humane manner. If appropriate impoundment/boarding facilities are unavailable in Town, the dog may be transported to an area Humane Society facility.

A. The officer who impounds a dog shall, within twenty-four (24) hours, give notice to the owner thereof -- if known -- 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 may be posted in the town clerk's office, other usual places for public notice, and on-line media sites for a ten (10) day period. 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 transfer it to a humane society or rescue organization

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), 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. (Special provisions for potentially vicious dog or vicious dog are outlined below in Section 11.)

D. If an impounded dog is unlicensed, in addition to the impounding and boarding fees set forth herein, the dog shall not be released without the payment of the license fee required by State law, except that if the impounded dog has not had its proper vaccinations to be registered a thirty-five dollar (\$35.00) cash deposit shall be posted with the Town Clerk or his or her designated agent(s) until proof of registration is presented. A dog released under cash deposit shall be registered within two (2) working days after its release. If the dog is not registered within the time period set forth herein, the cash deposit shall be forfeited and the owner of the animal shall be subject to additional penalties under the provision of 20 V.S.A. Chapter 193.

E. 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 transferred to a humane society or rescue organization. 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.

F. The procedures provided in this section shall only apply if the dog is not a rabies suspect. If the Enforcement Officer determines that the dog is a rabies suspect, they shall immediately notify the Town Health Officer who shall proceed in accordance with the rules of the Vermont Department of Health.

### **SECTION 11. INVESTIGATION OF VICIOUS DOGS.**

A. Any dog that is determined by an Enforcement Officer to be a potentially vicious dog, which presents an imminent danger to people or other animals, or has reportedly bitten a person off [or on]33 the premises of its owner, or is in violation of State licensing law or 20 V.S.A. § 3806 may be immediately impounded.

B. A person claiming a dog is a "potentially vicious dog" shall 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.

C. 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.

D. 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.

E. 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.

F. 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 13. OTHER LAWS.** This ordinance is in addition to all other ordinances of the Town of West Fairlee and all applicable laws of the State of Vermont. All ordinances or parts of ordinances, resolutions, regulations, or other documents inconsistent with the provisions of this ordinance are hereby repealed to the extent of such inconsistency.

**SECTION 14. 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.

Adopted by the West Fairlee Selectboard the 19th day of August, 2019:

Delsie Hoyt, Chair  
Beverly Jo Ash  
Bruce Durkee  
Fred E. Cook  
Steve Malinoski