

**Town of Eden
Animal Control Ordinance**

SECTION 1. AUTHORITY.

This ordinance is adopted by the Selectboard of the Town of Eden, Vermont under authority of 20 V.S.A. § 3549, 24 V.S.A. § 2291 (10), (14), and (15), and 24 V.S.A. Chapter 59.

SECTION 2. PURPOSE.

It is the purpose of this ordinance to regulate the keeping of domestic animals and wolf-hybrids and to provide for their leashing, muzzling, restraint, impoundment, humane 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.

SECTION 3. DEFINITIONS.

For purposes of this ordinance, the following words and/or phrases shall apply:

A. "Animal" means any of various animals domesticated so as to live and breed in a tame condition to include **only** cattle, equines, sheep, goats, swine, poultry, domestic cats, ferrets, dogs, and wolf-hybrids. For the purpose of this ordinance, this term shall also include wolf-hybrids, working farm dogs, and hunting dogs unless specifically exempted.

B. "Enforcement Officer" is any Town constable, State police officer, animal control officer, humane officer, or any other person designated as an enforcement officer by the Selectboard.

C. "Hearing" means a meeting before the Selectboard to determine facts regarding a complaint of a vicious or potentially vicious animal and to impose sanctions as appropriate.

D. "Humane Officer" means:

A) any enforcement officer as defined in 23 V.S.A. § 4(11) (A) or investigator employed by the Office of the Attorney General or State's Attorney; or

B) an individual who has received the animal cruelty response training who is an animal control officer employed by a municipal or State law enforcement agency to perform the duties and functions of a humane officer; or a Division of Animal Welfare employee authorized to conduct investigations. The officers of the town of Eden do not qualify as "Humane Officers", therefore any concerns should be directed towards the local Sheriff's Department or State Police.

E. "Impoundment" is detention of the animal by the Town at a place designated by the Selectboard until further disposition. Such place may or may not be operated by the Town, and may or may not be within the Town limits.

F. "Owner" means any person who has actual or constructive possession of an animal. The term also includes those persons who provide food and shelter to an animal.

G. "Potentially vicious animal" means any animal running at large that a) inflicts minor injuries on a person without necessitating medical attention, b) chases, threatens to attack or attacks another animal as defined in 20 V.S.A. § 3541, c) causes damage to personal property, chases a person, or causes any person to reasonably fear attack or bodily injury from such animal. This definition shall not apply if the animal was protecting or defending itself, its offspring, a pet, animal, or person from attack or assault, or if the person attacked or threatened by the dog was engaged in teasing, tormenting, battering, assaulting, injuring, or otherwise provoking the animal.

H. "Premises" means the home and real property (land) of an animal owner.

I. "Running at large" means a dog is **not** on a leash, in a vehicle, on the owner's premises, on the premises of another person with that person's permission, clearly under the verbal or non-verbal control of the owner, or hunting with the owner.

J. "Vicious animal" means any animal that bites any person while the dog is off the premises of the owner or keeper if that person requires medical attention for the attack.

K. "Wolf hybrid" means an animal that is the progeny of a dog and a wolf (*Canis lupis* or *Canis rufus*), an animal that is advertised or otherwise described or represented to be a wolf hybrid, or an animal that exhibits primary physical and/or behavioral wolf characteristics.

L. "Working farm dog" means any dog bred or trained to herd or protect livestock/poultry or to protect crops, is used for those purposes, and is registered as a working farm dog with the Town of Eden and pursuant to State law.

SECTION 4. NUISANCES.

An owner of a domestic animal shall not allow, permit, or suffer such animal to create a nuisance. The term "nuisance" means any of the following activities.

A. Lack of collar or harness with valid license attached when applicable by Town Ordinance.

B. Disturbing the Peace. An animal that disturbs the quiet, comfort and repose of others by making unnecessary and offensive noises between sunset and sunrise or persistently for a continuous period of thirty (30) minutes or more between sunrise and sunset. This provision shall not apply to working farm animals making noise in while herding or protecting livestock or poultry, or to protect crops.

C. A domestic animal running at large in the Town. This provision shall not apply to working farm dogs running at large to protect livestock or poultry or to protect crops.

D. An animal 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.

E. A female domestic animal in heat not confined to a building or other secured enclosure, except while under direct control of the owner.

SECTION 5. COLLAR AND LICENSE.

Each dog and wolf-hybrid that is more than six (6) months old shall be licensed according to the laws of this state and shall wear a collar or harness with a valid license attached. A dog or wolf-hybrid found without a collar or harness and valid license may be impounded.

SECTION 6. HUMANE CARE OF DOMESTIC ANIMALS.

A. All domestic animals shall be furnished with clean, safe, adequate shelter sufficient to protect the animal and the public health. Domestic animals predominantly maintained outdoors shall be provided with adequate natural shelter or adequate constructed shelter to prevent direct exposure to the elements (this does not apply to healthy livestock guardian dogs maintained in an outdoor enclosure) as provided in 13 V.S.A. § 365. Livestock confined in enclosed areas shall be provided with adequate ventilation and shall have access to adequate exercise so as to maintain normal muscle tone and mass for the age, size, and condition of the animal in accordance with accepted agricultural or veterinary practices. This section does not apply to dairy herd housing facilities (loose housing, comfort tie-stall, or stanchion lockups).

B. A leash, rope, or chain used to restrict an animal shall be affixed in a manner that prevents the livestock animal from becoming entangled or injured and shall permit the livestock animal access to adequate shelter, food, and water. This does not apply to a livestock animal in transit or in immediate control of a person. No person shall tie, tether, or restrain any dog in a manner that is inhumane or detrimental to its welfare. A dog or wolf-hybrid predominantly maintained outdoors on a tether shall be on a tether that allows the animal to walk a distance in any one direction that is at least four times the length of the dog as measured from the tip of its nose to the base of its tail, and shall allow the dog access to the shelter as provided in 13 V.S.A. § 365.

C. No person shall overwork, overload, torture, torment, abandon, administer poison to, or cruelly beat any domestic animal, or expose any domestic animal to a poison with intent that it be ingested by the animal.

D. No person shall intentionally kill or attempt to kill any domestic animal belonging to another person without first obtaining legal authority or consent of the owner.

E. No person shall kill any domestic animal by intentionally causing the animal undue pain or suffering.

F. No person shall leave any dog unattended in a standing or parked motor vehicle in a manner that would endanger the health and safety of the animal. Any Humane Officer may use reasonable force to remove such dog from said motor vehicle as provided in 13 V.S.A. § 386.

G. Any Humane Officer that believes a domestic animal is being subjected to cruel treatment in violation of this section may apply for a search warrant pursuant to 13 V.S.A. § 354(2) to enter the premises where the animal is being kept and seize the animal. If any Humane Officer determines that an animal's life is in jeopardy and immediate action is required to protect the animal's health or safety, the Officer may seize the animal without a warrant as provided in 13 V.S.A. § 354(3).

H. the provisions of the section shall not apply to affirmative defenses as provided by 13 V.S.A. § 352b. Nor shall the provisions of this section apply to the killing of any dog as provided by 20 V.S.A §§ 3545, 3809.

SECTION 7. PENALTIES, ENFORCEMENT, AND WAIVER FEES.

A violation of this ordinance shall be a civil matter which may be enforced in the Vermont Judicial Bureau or in the Lamoille County Superior Court, at the election of the Selectboard. Each day that a violation continues shall constitute a separate violation of this ordinance.

A. Violations enforced in the Judicial Bureau shall be in accordance with the provisions of 24 V.S.A. §§ 197a, 1977 et seq.

1. Any Town official designated as an Enforcement Officer by this ordinance shall have the authority to issue tickets and represent the Town in hearings before the Judicial Bureau.

2. The Enforcement Officer is authorized to recover civil penalties for violations of this ordinance in the following amounts for each violation:

1st Offense: Written warning

2nd Offense: \$100 fine, or a \$50 waiver fee.

3rd Offense: \$200 fine or \$100 waiver fee.

4th Offense: \$500 fine or \$250 waiver fee, plus impoundment costs and any remedial action as required by the Enforcement Officer.

For purposes of determining the sequence of offenses written warnings constitute the first offense when applicable. Second and third offenses shall be those occurring within twelve (12) months of the anniversary day of the first offense. Any offense occurring after this twelve (12) month period shall be considered a new first offense.

The Enforcement Officer is authorized to recover a waiver fee in lieu of a civil penalty in the stated amount for any person who declines to contest a Town ticket.

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

C. Impoundment and boarding costs shall be set by the Selectboard as it deems appropriate and necessary from time to time.

SECTION 8. IMPOUNDMENT.

A. Any Enforcement Officer may impound any dog or wolf-hybrid when that animal:

1. is in violation of State licensing laws.
2. is suspected of having been exposed to rabies.
3. has an unknown rabies vaccination history.
4. is running at large.
5. is disturbing the peace.
6. is a female dog in heat not confined to a building or other secure enclosure, except when under the control of the owner.
7. is a potentially vicious dog.
8. presents an imminent danger to people or other domestic pets or animals.
9. has reportedly bitten a person off the premises of its owner.

B. Any Enforcement Officer may impound any domestic animal when that animal is running at large.

SECTION 9. NOTICE OF IMPOUNDMENT AND RELEASE FROM IMPOUNDMENT.

A. Within twenty-four (24) hours of impoundment of a dog the Enforcement Officer shall 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 reason for the impoundment, the location of the animal, and the steps necessary to have the dog returned to the owner.

B. If the owner of the domestic animal is unknown, the officer who impounds the animal shall, within twenty-four (24) hours of impoundment, post a public notice regarding the impoundment. Notification shall be posted in the Town Clerk's Office and other usual places for public notice for a ten (10) day period. The public notice shall include a description of the animal, 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 animal and pays all expenses incurred by the Town for treatment, boarding, and care of the animal, plus any applicable penalties and takes all necessary remedial action within ten (10) days following posting, the Town may place the animal in an adoptive home or transfer it to a humane society or rescue organization. If the animal cannot be placed in an adoptive home or transferred to a humane society or rescue organization, it may be destroyed humanely.

C. Impounded animals shall be released to the owner only after all of the following steps have been completed:

1. payment of all penalties and impoundment fees (including but not limited to boarding, food, and veterinary expenses).
2. the final disposition of a potentially vicious animal or vicious animal hearing if applicable.
3. agreement in writing to all necessary remedial action as ordered by the Enforcement

Officer or the Selectboard, in the case of a potentially vicious or vicious animal hearing. Remedial action may include, but is not limited to, such actions as providing a collar or harness and a valid license, and verification of current vaccination against rabies.

D. If the owner of an animal impounded under the provisions of this ordinance refuses to secure the animal's release within ten (10) days following notice of impoundment or gives notice personally, by telephone call, or in writing to the Town of forfeiture of ownership before that time, the animal 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 animal is not suspected of having rabies. If an Enforcement Officer determines that the dog is suspect of having rabies, the Selectboard shall immediately notify the Town Health Officer who shall proceed in accordance with the provisions of Subchapter 5 of Title 20, Chapter 193 and the rules of the Vermont Department of Health.

SECTION 10. POTENTIALLY VICIOUS DOMESTIC ANIMALS.

A person claiming an animal is a "potentially vicious animal" 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 animal or person threatened or attacked, an identification of the attacking animal, the name and address of any victim(s), and any other facts that may assist the Selectboard in conducting its investigation.

Upon receipt of a "potentially vicious animal" complaint the Selectboard shall proceed as in the case of a "vicious animal" complaint, as per section 11, with the exception that if the Selectboard determines that the behavior classifies the animal as "potentially vicious" the Selectboard may order any protective measures to be taken absent humane destruction.

SECTION 11. VICIOUS ANIMALS.

A. When a domestic animal has bitten a person while it is off the owner's premises and the person bitten requires medical attention for the attack, such person may file a written complaint with the Selectboard. The complaint shall contain the time, date, and place where the attack occurred, an identification of the attacking dog, the name and address(es) of the victim(s), and any other facts that may assist the Selectboard in conducting its investigation.

B. Within seven (7) business days of receipt of the complaint the Selectboard shall investigate the charges and hold a hearing on the matter. If the owner of the animal 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 the hearing and a copy of the complaint.

C. If the domestic animal is found to have bitten the victim without provocation, the Selectboard shall make an order for the protection of persons as the facts and circumstances of the case may require including, without limitation: the muzzling or confinement of the animal, the placement of the animal in an adoptive home or at a rescue organization, completion of a pre-approved responsible owner training program, or disposal of the animal in a humane manner. The order shall be sent to the owner by certified mail with return receipt requested. After receiving notice, a person failing to comply with the terms of the order shall be subject to an enforcement action in Superior Court.

D. The procedures provided in this section shall only apply if the domestic animal is not suspected of having rabies. If an Enforcement Officer determines that the animal is suspected of having rabies, the Selectboard shall immediately notify the Town Health Office who shall proceed in accordance with the provisions of Subchapter 5 of Title 20, Chapter 193, and the rules of the Vermont Department of Health.

SECTION 12. OTHER LAWS.

This ordinance is in addition to all other ordinance of the Town of Eden and all applicable laws of the State of Vermont. All ordinances inconsistent with the provisions of this ordinance are hereby replaced to the extent of such inconsistency.

SECTION 13. 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.

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