

TOWN OF WEATHERSFIELD, VERMONT
ANIMAL CONTROL ORDINANCE

An Ordinance of the Town of Weathersfield relating to control of animals and wolf-hybrids providing:

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I. AUTHORITY

This Ordinance is adopted by the Select Board of the Town of Weathersfield, Vermont, under the specific authority granted by Title 20, section 3549, and under the general authority granted by Title 20, Chapters 191, 193, 194 and 199; Title 24, Sections 2291 (10), 2291 (14), 2291 (15), and 2291 (21); and Title 24, Chapter 59, all of the Vermont Statutes Annotated, to regulate the control and welfare of domestic pets, animals and wolf-hybrids within the Town of Weathersfield, Vermont.

II. PURPOSE

It is the purpose of this Ordinance to regulate the keeping of animals and wolf-hybrids, to protect public health and safety, and to protect the residents' quiet enjoyment of their homes and properties.

III. DEFINITIONS

For purposes of this Ordinance, the following terms, phrases, words and their derivations shall have the meaning given herein.

The word “**shall**” is always mandatory and not merely directory.

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- (A) **‘Animal’** or **‘Domestic Animal’** shall mean cattle, sheep, goats, equines, fallow deer, red deer, reindeer, American bison, swine, poultry, pheasant, Chukar partridge, Coturnix quail, psittacine birds, ferrets, camelids, ratites (ostriches, rheas, and emus), and water buffalo. The term shall include cultured trout propagated by commercial trout farms. However, an animal, including any of those listed in this subdivision, which is imported, possessed, or confined for the purpose of hunting it, shall be a wild animal and regulated by the Fish and Wildlife Board and Commissioner of Fish and Wildlife under the provisions of part 4 of Title 10.
- (B) **‘At Large’** shall mean a domestic pet or wolf-hybrid that is found in any place other than the premises of the owner or keeper of the domestic pet or wolf-hybrid and is not ‘under restraint’ [See I].
- (C) **‘Cruelty’** shall mean any act of omission whereby unjustifiable physical pain, suffering or death of an animal is caused or permitted, including failure to provide proper drink, air, space, shelter or protection from the elements, a sanitary and safe living environment, veterinary care or nutritious food in sufficient quantity.
- (D) **‘Disturbances and Nuisances’** shall mean any animal or wolf-hybrid which does any of the following:
- (1) runs repeatedly at large [three (3), or more, reported incidents in a ninety (90) day period];
 - (2) harasses or attacks other animals or people, unless such animal(s) or person(s) are trespassing on the private property of the owner or keeper of the dog or wolf-hybrid;
 - (3) disturbs the quiet, comfort and repose of others by frequent, habitual or persistent barking, howling or other loud, consistent noise;
 - (4) molests and/or attacks passers-by and/or passing vehicles;
 - (5) trespasses on school grounds;
 - (6) damages private or public property;
 - (7) is unlicensed.
- (E) **‘Domestic Animal’** – please see **‘Animal.’**
- (F) **‘Domestic Pet’** or **‘Pet’** shall mean any domestic dog, domestic cat or ferret. The term shall also include such other domestic animals as the Commissioner shall establish by rule, provided that the Commissioner finds that the animal has the potential to become an imminent danger to public health or welfare if not subjected to the provisions of this chapter.
- (G) **‘Enforcing Officer’** shall mean any person duly appointed by the Select Board of the Town of Weathersfield, or Law Enforcement Officer employed by the Town or the State of Vermont for such purpose as to enforce and/or uphold the provisions provided herein.

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- (H) **‘Owner or Keeper’** shall mean any person having temporary or permanent custody of; sheltering or having charge of; harboring, exercising control over, or having property rights to, any animal, domestic pet or wolf-hybrid covered by this Ordinance. An animal shall be deemed to be harbored if it is fed or sheltered for three (3) consecutive days.
- (I) **‘Pet’** – please see **‘Domestic Pet.’**
- (J) **‘Pound’** shall mean the place designated by the Select Board of the Town of Weathersfield to keep domestic pets and/or wolf-hybrids found by an Enforcement Officer or citizen to be in violation of any provision of this or referenced Vermont Statutes Annotated or local ordinances [The Pound shall be designated annually by the Select Board];
- (K) **‘Under Restraint’** shall mean:
- (1) a dog or wolf-hybrid, attached to a leash by a collar or a harness that is not longer than eight (8) feet held by the owner, keeper or another competent person;
 - (2) within a vehicle or travel cage;
 - (3) on the property of its owner or keeper;
 - (4) on the property of another person with that person’s permission;
 - (5) clearly under the verbal or non-verbal control of the owner, keeper or another competent person;
 - (6) engaged in hunting with its owner or keeper.
- (L) **‘Vaccination Against Rabies’** shall mean a vaccine approved by the Commissioner of the Vermont Department of Agriculture and administered by a licensed veterinarian. Until the Commissioner approves a rabies vaccine for use on wolf-hybrids, these animals shall be vaccinated with a vaccine approved by the Commissioner for domestic dogs.
- (M) **‘Vicious animal or wolf-hybrid’** shall mean any animal or wolf hybrid that bites or attempts to bite any human being without provocation, or which harasses, chases, bites or attempts to bite any other animal [including all livestock and any domestic pet], unless the person or animal is trespassing on the property of the owner or keeper of the animal.
- (N) **‘Wolf-hybrid’** shall mean:
- (1) an animal that is the progeny of a dog and a wolf (canis lupis or canis rufus);
 - (2) an animal that is advertised or otherwise described or represented to be a wolf-hybrid.

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IV. RESPONSIBILITIES OF THE OWNER OR KEEPER

(A) Licensing

It shall be the duty of every person owning, keeping or harboring any dog or wolf-hybrid more than six (6) months of age within the Town of Weathersfield to annually on or before April 1, cause it to be registered with the Town Clerk in accordance with Title 20, Sections 3581 through 3592, inclusive of the Vermont Statutes Annotated, as amended.

(B) Collar and License

(1) Each dog and/or wolf-hybrid shall be licensed according to the laws of this state and shall wear a collar or harness with the current license attached. Any dog or wolf-hybrid that is visiting from out of state must wear a collar or harness with a current license from its home state attached.

(2) Any dog or wolf-hybrid that is found without a collar or harness and attached license shall be immediately impounded under authority of 20 V.S.A. 3806 and shall be managed under the provisions of that Statute.

(C) Vaccination against Rabies: Domestic pets shall be inoculated with a rabies vaccine approved by the Commissioner of Agriculture, Food and Markets. Rabies vaccines or boosters must be used for dogs and cats. Two (2) one-year rabies vaccines are available for ferrets. Wolf-hybrids must be inoculated with rabies vaccine approved for dogs in the same manner as labeled for dogs.

(D) Sanitation/Pooper Scooper

The person in control of a dog or wolf-hybrid that defecates in any public area or on the private property of another person shall immediately remove the fecal material and dispose of it in a sanitary manner.

(E) Under Restraint

It is the responsibility of the owner or keeper to keep any dog or wolf-hybrid leashed or under restraint regardless of age when on any public property or private lands other than that of the owner or keeper.

(F) Animals or Wolf-Hybrids at Large

No owner or keeper shall permit an animal or wolf-hybrid to run at large in a street, road, park or common; nor shall the owner or keeper allow his/her animal or wolf-hybrid to run at large on other peoples' property, namely lawns, gardens, yards, school grounds, parking areas, or other land used or occupied by other person(s), without the permission of the owner of the land.

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- (G) **Female Animal or Wolf-Hybrid in Heat**
A female animal or wolf-hybrid in heat shall be confined to a building or other secure enclosure in such manner that such animal cannot come in contact with another animal and/or wolf-hybrid except for intentional breeding by the owner or keeper.
- (H) **Vicious Animal or Wolf-Hybrid**
The owner shall confine within a building or a secure enclosure every vicious animal or wolf-hybrid, and not take such animal out of such building or enclosure unless such animal or wolf-hybrid is securely muzzled, restrained and/or leashed, and clearly under the control of the owner, keeper, or otherwise competent person.
- (I) **Abandonment**
No owner or keeper of any animal or wolf-hybrid shall willfully abandon any animal or wolf-hybrid on any street, road, highway or public place, or on private property without the consent of the owner of that property.
- (J) **Disturbances and Nuisances**
No owner or keeper of any animal or wolf-hybrid shall permit their animal to become a disturbance or nuisance to their fellow citizens and shall do their best to ensure the animal or wolf-hybrid remains on their property at all times.

V. DUTIES OF THE ENFORCING OFFICER(S)

- (A) It is the responsibility of the Enforcing Officer(s) to attempt to capture any animal or wolf-hybrid running at large, to attempt to contact the owner or keeper, or to transport such animal to the pound.
- (B) Immediately after capture, the Enforcing Officer(s) shall check the animal for proper identification. The capture should be recorded on the Animal Report form. The time, place, description of the animal and a brief explanation of the circumstances should be logged at the time of capture.
- (C) After transport to the pound, the Enforcing Officer(s) shall make every reasonable attempt to identify such animal or wolf-hybrid impounded and notify the owner or keeper of the procedures for retrieving such animal. The owner or keeper shall be responsible for all costs relating to the impounding of such animal.
- (D) It is the primary responsibility of the Enforcing Officer(s) to attempt to transport to the pound any animal or wolf-hybrid which is running at large and to make a reasonable attempt to identify the owner. The Enforcing Officer(s) or other authorized issuing officers are authorized to issue a citation and fine in accordance with Section 11 (Penalties).

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VI. IMPOUNDMENT

- (A) Any animal or wolf-hybrid that is determined by the Enforcing Officer(s) to be vicious and/or which presents an imminent danger to people or other animals shall be immediately impounded.
- (B) Any animal or wolf-hybrid that is apprehended for a third or subsequent violation of any provision of this Ordinance within a period of ninety (90) days shall be impounded.

VII. NOTICE OF IMPOUNDMENT AND RELEASE FROM IMPOUNDMENT

- (A) The Enforcing Officer who impounds the animal or wolf-hybrid shall, within twenty-four (24) hours, give notice to the owner or keeper hereof, either personally or by written notice at the owner or keeper's dwelling. Such notice shall inform the owner or keeper of the nature of the violation(s), the location of the animal(s) and the steps that are necessary to have the animal(s) returned to the owner or keeper.
- (B) If an impounded animal or wolf-hybrid has no license or other identification, the Enforcing Officer who impounds the animal(s) shall proceed under the provisions of 20 V.S.A. 3806.
- (C) Impounded animals shall be released to the owner or keeper only after payment of all penalties and impoundment fees and after remedial action by the owner or keeper. Remedial action shall include, but is not limited to, such actions as providing a collar and current license (if applicable) and providing a plan for compliance with the provisions of this Ordinance and with state law. The pound shall require a receipt from the Town Clerk for the license, if applicable, and from the Town Manager's Office for penalties.

VIII. INVESTIGATION OF VICIOUS DOMESTIC PET OR WOLF-HYBRID

When an animal or wolf-hybrid has bitten a person or other animal while the offending animal or wolf-hybrid is off the premises of the owner or keeper, and that person or animal bitten requires medical attention for the attack, such person or owner/keeper of such animal may file a written complaint with the Select Board. The complaint shall contain the time, date and place where the attack occurred, the name and address of the victim(s), and any other facts that may assist the Select Board in conducting its investigation required by subsection (B) of this Section.

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- (A) The Select Board, within seven days from receipt of the complaint, shall investigate the charges and hold a hearing on the matter. If the owner of the animal or wolf-hybrid 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 the facts of the complaint.
- (B) If the animal or wolf-hybrid is found to have bitten the victim without provocation, the Select Board shall make such order for the protection of person(s) as the facts and circumstances of the case may require, including, without limitation, that the animal or wolf-hybrid be disposed of in a humane way, muzzled, chained or confined. The order shall be sent by certified mail, return receipt requested. Any person who, after receiving notice, fails to comply with the terms of the order, shall be subject to the penalties provided in Section XI of this Ordinance [20 V.S.A. 3551].
- (C) Additionally, if a person has failed to comply with the terms of the order, or where the owner or keeper of an animal or wolf-hybrid refuses to have the animal inoculated or licensed, if appropriate, or where the Town of Weathersfield believes there is a threat to the public welfare, the Town may apply to the Windsor County Superior Court for an order to compel the enjoinder of a violation of this order, or to request an order authorizing the seizure and disposition of animal(s) or wolf hybrids.
- (D) The owner or keeper of an animal or wolf hybrid aggrieved by a decision made following a hearing before the Select Board may appeal within thirty (30) days of receipt of the decision to the Windsor County Superior Court, which shall consider the matter *de novo*.
- (E) The procedure provided in this section shall only apply if the animal or wolf-hybrid is not a rabies suspect. If a municipal official, designated by the Select Board, determines that the animal is a rabies suspect, the provisions of Title 20, Chapter 193, Subchapter 5, of the Vermont Statutes Annotated and the rules of the Department of Health shall apply.

IX. NOTIFICATION OF OFFICIALS

To enforce this Ordinance, any person(s) finding any animal or wolf-hybrid upon his property, to his injury or annoyance, should immediately contact the Enforcing Officer(s) and thereafter file a written report with that officer. Complaint forms may be obtained at the Town Office, or from the Enforcing Officer(s).

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X. ENFORCEMENT

- (A) This is a civil ordinance which shall be enforced in the Judicial Bureau in accordance with the provisions in 24 V.S.A. 1974a and 1977, et. Seq..
- (B) The Law Enforcement Officer(s), the Constable, and Animal Control Officer(s) of the Town of Weathersfield or State of Vermont shall be the Enforcement Officers of this Ordinance. The Chief of Police and the Constable are authorized to be the issuing municipal officials.
- (C) All Enforcement Officers may use any reasonable means necessary to apprehend any animal or wolf-hybrid found to be in violation of this Ordinance, for impoundment at a pound designated by the Select Board.
- (D) Nothing in this Ordinance shall be construed as preventing any person from killing a rabid animal which attacks a person, another animal or wolf-hybrid, and a person so killing such rabid or suspected rabid animal shall not be held liable for damages for such killing as specified in 20 V.S.A. 3809.
- (E) It shall be unlawful to interfere with, hinder or molest an Enforcing Officer in the performance of his/her duties, or to release or harm any animal or wolf-hybrid in the custody or possession of the Enforcing Officer.

XI. PENALTIES AND COSTS

- (A) Any person(s) found to have violated any section of this Ordinance in a case which involves a licensed animal, or unlicensed animal if not required to be licensed, shall be assessed a civil penalty of:
 - (1) First Offense: \$35.00 full penalty
\$25 waiver penalty*, per animal.
 - (2) Second Offense: \$50.00 full penalty
\$35.00 waiver penalty*, per animal.
 - (3) Third Offense: Impoundment and impoundment costs, plus
\$100.00 full penalty
\$75.00 waiver penalty*, per animal.
 - (4) Subsequent Offenses: Impoundment and impoundment costs, plus
\$100.00 full penalty per animal.

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- (B) Any person(s) found to have violated any section of this Ordinance in a case which involves an unlicensed animal required to be licensed shall be assessed a civil penalty of:
- (1) First Offense: \$50.00 full penalty
\$35.00 waiver penalty*, per animal.
 - (2) Second Offense: Impoundment and impoundment costs, plus
\$75.00 full penalty
\$50.00 waiver penalty*, per animal.
 - (3) Third Offense: Impoundment and impoundment costs, plus
\$150.00 full penalty
\$100.00 waiver penalty*, per animal.
 - (4) Subsequent Offenses: Impoundment and impoundment costs, plus
\$150.00 full penalty, per animal.
- * The waiver penalty applies when an alleged violator pays the fine without contesting the violation.
- (C) All fines shall be paid prior to the release of the animal from the pound, should impoundment be necessary.
- (D) Impoundment costs shall be set annually by the Select Board.
- (E) It is the owner's or keeper's responsibility to pay all veterinary fees and penalties for violating this Ordinance. Such veterinary fees shall include, but shall not be limited to: medical treatment, vaccines, boarding and public advertising fees.

XII. INCONSISTENT ORDINANCES REPEALED

Any provisions of any Ordinance of the Town of Weathersfield in effect at the time of enactment of this Ordinance governing any activity included in this Ordinance is hereby revoked.

XIII. SEVERABILITY

If any section, subsection, subdivision, paragraph, sentence, clause, or phrase of this Ordinance, or any part thereof, is for any reason held to be unconstitutional or invalid or ineffective by any court of competent jurisdiction, such decision shall not affect the validity or effectiveness of the remaining portions of this Ordinance or any part thereof.

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XIV. EFFECT

No section of this Ordinance shall be construed to supersede or replace any Vermont statute.

This Ordinance shall be entered in the minutes of the Select Board's meeting, and posted in at least five (5) conspicuous places with the Town of Weathersfield and published in a newspaper circulating in the Town on a day not more than fourteen (14) days following the date when the Ordinance is adopted.

This Ordinance will become effective on the first day of January, 2007, sixty (60) days after the date of its adoption by the Select Board, unless a petition is filed with the Town Clerk by the eighteenth day of December, 2006, forty-four (44) days after the date of its adoption. The petition should be addressed to the Select Board, should be signed by at least five percent (5%) of the qualified voters of this municipality, and should ask for a special meeting to be called on the question of disapproving the Ordinance. Questions about the Ordinance may be directed to the Municipal Offices, Post Office Box 550, Ascutney, Vermont, 05030-0550 or by calling [802] 674-2626.

The foregoing Ordinance is hereby adopted by the Select Board of the Town of Weathersfield, Vermont, this second day of November, 2006.

Henry C. Cobb, Chairperson
Norman John Arrison, Vice-Chairperson
Patricia W. Daniels, Board Clerk

Daniel E. Boyer, Selector
C. Peter Cole, Selector