

Adopted: April 11, 2016

**Town of Eden
Dog 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), (15), and (21), 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 leashing, muzzling, restraint, impoundment, 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. "Dog" means any member of the canine species. For purpose of this ordinance, this term, wherever used, shall also include "wolf-hybrids," "working farm dogs," and "hunting dogs" except where specifically exempted.
- 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. "Hearing" means a meeting before the Selectboard to determine facts regarding a complaint of a vicious or potentially vicious dog and to impose sanctions as appropriate.
- D. "Humane Officer" means any law enforcement officer as defined in 23 V.S.A. § 4(11); auxiliary State police officers; deputy game wardens; humane society officer, employee, or agent; animal control officer appointed by the Selectboard; local board of health officer or agent; or any officer authorized to serve criminal process.
- E. "Impoundment" means being held by the Town at a place designated by the Selectboard, where dogs are kept until further disposition of the Town. 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 a dog. The term also includes those persons who provide food and shelter to a dog.
- G. "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.

H. "Premises" means the home and real property (land) of a dog owner.

I. "Running at large" means that a dog is not:

1. on a leash;
2. in a vehicle;
3. on the owner's premises;
4. on the premises 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.

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

K. "Wolf hybrid" means:

1. an animal that is the progeny of a dog and a wolf (*Canis lupus* or *Canis rufus*);
2. an animal that is advertised or otherwise described or represented to be a wolf hybrid;
or
3. an animal that exhibits primary physical and/or behavioral wolf characteristics.

L. "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.

SECTION 4. NUISANCES.

An owner of a dog 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 a valid license attached.

B. Disturbing the Peace. A dog that disturbs the quiet, comfort and repose of others by barking, whining, calling, or howling for a continuous period of fifteen (15) minutes or more. This provision shall not apply to working farm dogs barking in order to herd or protect livestock or poultry or to protect crops.

C. A dog 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. 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.

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

SECTION 5. COLLAR AND LICENSE.

A. Each dog 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 that is visiting from out of state must wear a collar or harness with a valid license from its home state attached. A dog that is found without a collar or harness and valid license may be impounded.

SECTION 6. HUMANE CARE OF DOGS.

A. All dogs shall be furnished with clean, safe, and adequate shelters sufficient to protect the animal and the public health.

B. No person shall tie, tether, or restrain any dog in a manner that is inhumane or is detrimental to its welfare.

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

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

E. No person shall kill any dog 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 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 dog 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 dog is being kept and seize the animal. If any Humane Officer determines that a dog'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 this 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. §§ 1974a, 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:

First offense:	Written warning or \$100.00 fine	Waiver Fee: \$50.00
Second offense:	\$200.00 fine	Waiver Fee: \$100.00
Third offense:	\$500.00 fine Plus impoundment & impoundment costs, any remedial action as required by the Enforcement Officer.	Waiver Fee: \$250.00
Subsequent offenses	\$500.00 fine Plus impoundment & impoundment costs, any remedial action as required by the Enforcement Officer.	Waiver Fee: \$250.00

For purposes of determining the sequence of offenses, second and third offenses shall be those that occur within the twelve (12) month period of the anniversary day of the first offense. Any offense occurring after this twelve (12)-month period shall be considered a new first offense.

For purposes of calculating the sequence of offenses, offenses shall be counted against the owner.

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 and pays the waiver fee.

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 when that dog:

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;
- or

9. has reportedly bitten a person off the premises of its owner.

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 dog and the steps that are necessary to have the dog 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 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 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, plus 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, or 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 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 dog or vicious dog hearing if applicable; and
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 dog 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 certification of current vaccination against rabies.

D. If the owner of a dog impounded under the provisions of this ordinance refuses 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 suspect 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 DOGS.

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, an identification of the attacking dog, the name and address of any victim or victims, and any other facts that may assist the Selectboard in conducting its investigation.

Upon receipt of a "potentially vicious dog" complaint the Selectboard shall proceed as in the case of a "vicious dog" complaint, as per section 11, 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 11. VICIOUS DOGS.

A. When a dog has bitten a person while the dog is off the premises of its owner, 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 of the victim or victims, and any other facts that may assist the Selectboard in conducting its investigation.

B. The Selectboard, within seven (7) business 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: the muzzling or confinement of the dog; the placement of the dog in an adoptive home or at a humane society or rescue organization; completion of a pre-approved responsible owner training program; or disposal of the dog in a humane manner. 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 an enforcement action in Superior Court.

D. The procedures provided in this section shall only apply if the dog 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 12. OTHER LAWS.

This ordinance is in addition to all other ordinances 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.

SECTION 14. EFFECTIVE DATE.

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

Rich Moin
Jubal Durwage
Ken McQuinn

4-11-16
Date

Signatures