

TOWN OF WEATHERSFIELD, VERMONT

ANIMAL CONTROL ORDINANCE

As adopted on 12/18/08 and amended on 10/15/12

An Ordinance of the Town of Weathersfield relating to the control of animals providing:

I: AUTHORITY

This Ordinance is adopted by the Select Board of the Town of Weathersfield, Vermont under the specific authority of 20 V.S.A. § 3549, 24 V.S.A. § 2291(10), (14)–(15) and the general authority of 20 V.S.A. §§ 3341–3817, 24 V.S.A. §§ 1971–1984.

II: PURPOSE

It is the purpose of this Ordinance to regulate the keeping of animals, to protect public health and safety, and to protect the residents' quiet enjoyment of their homes and properties, and to define what constitutes a public nuisance.

III: DEFINITIONS

As used in this Ordinance:

“Animal” means any living sentient creature, not a human being;

“At-large” means not “under restraint;”

“Cat” means any member of the species *Felis catus*, commonly known as the domestic cat;

“Dangerous animal” shall mean: (1) an animal, while running at large, which causes reasonable fear of bodily injury by attacking or threatening to attack a person, domestic pet, or domestic animal; or (2) an animal that is diseased and dangerous to the public health; or (3) a wolf-hybrid which is not being confined within a proper enclosure as required by Article VI(J), or which, when outside of its enclosure, is not either in a cage or on a leash.

“Dog” means:

- (1) Any member of the species *Canis lupus familiaris*, commonly known as the domestic dog;
- (2) Any wolf-hybrid, as defined in 20 V.S.A. 3541(8);

“Domestic animal” means any cattle, sheep, goats, equines, fallow deer, red deer, reindeer, American bison, swine, poultry, camelids, ratites (ostriches, rheas, and emus), water buffalo, and any other animal, excluding a domestic pet, owned for agricultural or companionship purposes;

“Domestic pet” means any dog, cat, wolf-hybrid, or ferret;

"Animal Control Officer" means the Weathersfield Health Officer and Deputy Health Officers, Town Manager, Constable, any Town law enforcement officer, any State or County employee duly authorized to enforce the provisions of this Ordinance, and any person duly appointed by the Select Board to enforce the provisions of this Ordinance.

"Ferret" means any member of the species *Mustela putorius furo*, commonly known as the European ferret.

"Humane disposal" shall mean (a) humane euthanasia by a licensed veterinarian, or (b) sold or given away to a responsible person.

"Nuisance Animal" means any domestic pet or domestic animal which is in violation of Article VI.

"Owner" means any person who has actual or constructive possession or control of a domestic pet or domestic animal. This shall include any person whose actual or constructive possession of such domestic pet or domestic animal is temporary. This shall not include a feral animal which has taken up residence on a person's property, so long as the person has not fed or sheltered the animal for more than three (3) consecutive days.

"Public Road" shall mean the area within 25' of the center line of the traveled way on any state- or town-owned highway or on any private road serving three or more residences.

"Physical control" means:

- (1) Confinement within a cage, pen, building, vehicle, or securely fenced area from which the animal cannot escape or on a secure run; or
- (2) The existence of a physical connection between an owner and an animal such that the owner can control the animal's movements and behavior.
 - (a) For a dog, this means a leash securely held by the owner or a competent person which is securely attached to a collar or harness securely worn by the dog such that there is a direct and unbroken physical connection between the dog and the owner or competent person.

"Pound" shall mean the place designated from time to time by the Select Board for the keeping of domestic pets and domestic animals in the Town's custody.

"Run at large" shall mean to move about without restraint, control or limitation as to property lines or areas.

- (1) A domestic pet or domestic animal on a public road is considered restrained if it is on a leash in the presence of a person and obedient to that person's commands and is not causing a danger or nuisance.
- (2) A wolf-hybrid is considered restrained if, while outside of the enclosure required in Article VI(J), it is either (a) in a cage or (b) on a leash in the

presence of a person and obedient to that person's commands and is not causing a danger or nuisance.

Exception: Nothing in this Ordinance shall be construed to require: (1) the restraint of cats, (2) the restraint of any domestic pet or domestic animal while on private property by permission of the property owner or while in a vehicle, or (3) to restrict the use of dogs for lawful hunting.

"Under Restraint" means any domestic pet or domestic animal which is:

- (1) Under the physical control of the owner and obedient to that person's commands and is not causing a danger or nuisance.
- (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.

"Wolf-hybrid" means those animals defined by 20 V.S.A., Chapter 193, Section 3541, as follows: an animal which is the progeny or descendant of a domestic dog (*Canis familiaris*) and a wolf (*Canis lupus* or *Canis rufus*). "Wolf-hybrid" also means an 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 behavioral wolf characteristics, or one which has the primary physical and behavioral wolf characteristics as described by the Commissioner of the Department of Fish and Wildlife (in Title 10, Appendix, Chapter 1, Subchapter 3, #34) as follows:

"The following are some general characteristics common to wolves:

Wolves have large heads, long muzzles (distance from the eyes to the top of the nose), and proportionately larger canines than domestic dogs. Wolf eyes appear slanted when viewed head on and are most often yellow in color. Built for speed and agility, wolves are lanky with narrow chests, long legs, and large feet. They often appear "bonier" than domestic dogs. Their front legs are quite close together and front feet toe out. The rear legs of a wolf tend to be cow-hocked or turned in. While a domestic dog will often carry its tail curved up over its back, a wolf carries its tail straight out or down (a dominant wolf will sometimes hold it straight up). Wolves and occasionally some northern breeds of dog, have an obvious gland located halfway down the top of the tail. The gland called the supra caudal functions as a scent carrier. The size of the supra caudal gland varies from that of a dime to 1 ½ inches in diameter. The hair covering the gland will usually contrast with the hair color of the tail and is often quite coarse. Wide tufts of hair often project outward and downward from a wolf's ears, framing the face.

In the wild the wolf is a social animal, living in family groups or packs. There are social hierarchies with the pack and being a dominant member is an important survival tool. Dominant animals rule with aggressive behavior, and wolves within packs will constantly test one another. Wolves will watch for signs of weakness in pack members or prey and take advantage of the weakness through aggressive behavior.

Wolves, because of the hunting instinct, are genetically programmed to track and pounce (seemingly without provocation) upon small, erratically behaving, vocalizing individuals who may, to the wolf, seem to be distressed. Small children often appear to a wolf to be distressed prey. Running or yelling on the part of a child can trigger a predatory response in a wolf. This instinctive response is almost impossible to alter through socialization or training.

Wolves are hyperactive compared to dogs and extremely curious or inquisitive. They may be shy around people and are extremely difficult to restrain. In the wild, wolves may range up to 30 to 125 miles per day and from a standing position can jump vertically 6 to 8 feet."

IV: PUBLIC NUISANCE

The Select Board hereby finds and declares that domestic pets and domestic animals not kept according to the requirements of this Ordinance are a Public Nuisance.

V: Applicability of Ordinance

(A) No person owning a domestic pet, domestic animal, or wolf-hybrid shall allow such animal to become or remain a public nuisance as herein defined, or to be kept in violation of this ordinance.

(B) Any domestic pet or domestic animal allowed to become or remain a public nuisance as herein defined shall be in violation of the Ordinance and is subject to the provisions of this Ordinance.

(C) Nothing in this Ordinance shall be construed to restrict accepted agricultural practices.

VI: RESPONSIBILITIES OF OWNER

(A) Licensing

Any person who owns a dog or wolf-hybrid greater than six (6) months of age shall cause such dog or wolf-hybrid to be licensed with the Town in accordance with 20 V.S.A. §§ 3581–3592. The Town may charge a fee for licenses, as authorized by Chapter 193, Title 20 of the Vermont Statutes.

(B) Collar and License to Be Worn

Any dog or wolf-hybrid licensed in the State of Vermont shall securely wear a collar or harness with its current license attached. Any out-of-state dog or wolf-hybrid temporarily within the Town shall be in compliance with the license and vaccination requirements of the owner's home jurisdiction and shall securely wear a collar or harness with such license attached.

(C) Vaccination Against Rabies

All domestic pets and wolf-hybrid shall be vaccinated against rabies in accordance with 20 V.S.A. § 3581–3581a.

(D) Sanitation

The owner of any dog or wolf-hybrid which has defecated on private property other than that of its owner onto which the dog has not been invited or on public

roads or public property (including parking areas, lawns, flower beds, parks, and sidewalks) shall remove the resulting material immediately and dispose of it in a sanitary manner.

(E) Under Restraint

All domestic pets and domestic animals shall be kept under restraint at all times. No domestic pet or domestic animal shall be allowed to run at large.

(F) Female In Heat

Any female domestic pet or domestic animal in heat shall be kept under the owner's physical control such that the female domestic pet or domestic animal cannot come in contact with another's domestic pet or domestic animal except for the purpose of intentional breeding by the owners.

(G) Abandonment

No owner of any domestic pet or domestic animal shall abandon such domestic pet or domestic animal.

(H) Nuisance Animal

No owner of any domestic pet shall permit such domestic pet to become a nuisance animal.

(I) "Dogs Prohibited" and "Leash Required" Places and events

(1) The Select Board may designate, from time to time, public places or special events where:

a. no person shall bring to or keep or maintain any dog or wolf-hybrid whether on or off a leash, or

b. where dogs and wolf-hybrids shall be on a leash at all times.

(2) Public places or special events include, but is not limited to buildings, parks, parades, festivals, carnivals, concerts, playgrounds, recreation areas, school grounds or other places or events where the public may be in attendance.

(3) This provision shall not prohibit the presence of dogs specially trained to assist the blind, disabled or handicapped or any dog being used by law enforcement or public safety officials within the course of their official duties.

(4) Locations or events so designated shall post a minimum of one sign that dogs or wolf-hybrids are prohibited or a leash is required per designation by the Select Board.

(J) Wolf-Hybrid enclosures

Except when in a cage or on a leash and not causing a danger or nuisance, a wolf-hybrid shall be confined within a proper enclosure consisting of:

1. A locked fence or structure of sufficient height and sufficient depth into the ground to prevent the entry of young children and to prevent the animal from escaping. Fencing shall at a minimum consist of an 8 ft. high chain link fence with a 2 ft. overhang and a chain link, concrete apron, or asphalt apron to prevent digging out and a catch pen to avoid escape and ease veterinary care.
2. A humane shelter for the animal.

VII: Animal Control Officer

- A. Any Animal Control Officer is hereby authorized and empowered to obtain search warrants to enter onto private lands, to seize and to impound domestic pets and domestic animals, and to take all reasonable and necessary measures to abate violations as herein defined.
- B. It is the duty of an Animal Control Officer to investigate complaints of animal nuisances and to enforce the provisions of this Ordinance.
- C. The Select Board shall designate from time to time the names of persons and their locations to receive domestic pets and domestic animals for impoundment under the terms of this Ordinance.

VIII: Violations

A domestic pet or domestic animal in the following situations is hereby declared to be a public nuisance in violation of Article New1 above:

- (A) The dog or wolf-hybrid has not been licensed in accordance with 20 V.S.A. Chapter 193; or
- (B) The dog or wolf-hybrid is not wearing a collar with its current license tag attached to the collar in accordance with 20 V.S.A. Chapter 193; or
- (C) The dog or wolf-hybrid has not been inoculated against rabies as required in 20 V.S.A. Chapter 193; or
- (D) The dog or wolf-hybrid has defecated on private property other than that of its owner onto which the dog has not been invited or on public roads or public property (including parking areas, lawns, flower beds, parks, and sidewalks) and the dog or wolf-hybrid owner does not remove the resulting material immediately and dispose of it in a sanitary manner; or

- (E) The domestic pet or domestic animal is a dangerous animal as determined by an Animal Control Officer; or
- (F) The domestic pet or domestic animal is being kept or maintained contrary to the conditions of a lawful order issued by an Animal Control Officer or the Weathersfield Select Board under Articles X - XII of this ordinance; or
- (G) The domestic pet (except domestic cat) or domestic animal is running at large; or
- (H) The domestic pet or domestic animal is causing damage to the property of anyone other than its owner, by:
 - 1. Turning over garbage containers; or
 - 2. Doing damage to gardens, flowers, shrubs, vegetables, or lawns; or
 - 3. Injuring or worrying people, domestic pets, domestic animals, or wolf-hybrids.
- (I) The domestic pet (except domestic cat), while running at large, is chasing and/or snapping at pedestrians, joggers, pets walked on a leash, bicyclists, vehicles, or riders on horseback or is jumping onto people; or
- (J) The domestic pet or domestic animal disturbs the quiet, comfort, and repose of others by frequent, habitual, or persistent barking, howling, or other loud noise; or
- (K) The dog or wolf-hybrid, whether kept on or off a leash, is at a public place or special event which has been designated by the Select Board as a "Dogs Prohibited" or a "Leash Required" public place or special event according to Article VI(I) of this Ordinance.
- (L) The wolf-hybrid is not being confined in a proper enclosure conforming to the requirements of Article VI(J) above.
- (M) The female domestic pet or domestic animal is in heat and not being kept under the owner's physical control as required by Article VI(F).
- (N) The domestic pet or domestic animal has been abandoned by the owner.

IX: Response to Violations by Animal Control Officer

When a domestic pet or domestic animal is found to be in violation of this Ordinance, an Animal Control Officer may take one or more of the following actions:

- (A) Issue a written warning to the owner.
- (B) Serve the owner with a written notice stating the nature of the violation and providing a reasonable time limit for the satisfactory correction thereof. The

offender shall, within the period of time stated, permanently cease and correct all violations. Any Person who continues any violation beyond the time limit specified in the written notice shall be issued a "Municipal Complaint" (ticket) pursuant to Section XIV.

- (C) Require that a domestic pet or domestic animal be restrained by a leash while off the premises of its owner.
- (D) Require that a domestic pet or domestic animal be confined within a cage, pen, building, vehicle, or securely fenced area from which the animal cannot escape or be restrained on a secure run.
- (E) Issue a "Municipal Complaint" (ticket) per the provisions of 24 V.S.A. 1974a and 1977 et. seq..
- (F) Confine or impound the domestic pet or domestic animal.

X: CONFINEMENT AND IMPOUNDMENT

(A) Animals Running At-Large

- (1) Animal Control Officers shall make reasonable attempts to capture any domestic pet or domestic animal found running at-large.
- (2) The first time a domestic pet or domestic animal is captured running at-large, the Animal Control Officer shall make reasonable attempts to identify and contact the animal's owner. If the owner is contacted, the Animal Control Officer may make arrangements to return the animal to the owner. If the owner cannot be identified or contacted, the Animal Control Officer may confine or impound the animal.
- (3) Any subsequent time a domestic pet or domestic animal is captured running at-large, the Animal Control Officer may impound the animal. Within twenty-four (24) hours of impoundment, the Animal Control Officer shall make reasonable attempts to give the owner of the animal (if the owner is known) notice of the impoundment, either personally or by written notice at the owner's residence. Such notice shall inform the owner of the nature of the violation, the location of the animal, and the steps necessary to retrieve the animal.
- (4) Notwithstanding subsection (2), any domestic pet or domestic animal in violation of one or more subsections of Article 6 that is captured running at-large may be immediately impounded. An impounded domestic pet or domestic animal shall not be released to its owner until the owner has taken the necessary steps to cure the violations and paid any boarding, veterinary fees, and costs associated with the impoundment.

(B) Unidentified Owners

If the owner of a domestic pet or domestic animal cannot be identified the Animal Control Officer may, within forty- eight (48) hours of the impoundment, post a conspicuous notice in the Town Clerk's office and at least one public place in the Town. The notice shall describe the domestic pet or domestic animal, state when and where the animal was captured, and declare that unless the owner contacts the Animal Control Officer to retrieve the animal within seven (7) days of the posting of such notice the animal will be sold, given away, or humanely disposed of. The notice shall set forth how the owner may contact the Animal Control Officer to claim the animal.

(C) Unretrieved Animals

- (1) If the identified owner of an impounded animal does not retrieve the animal within seven (7) days of receiving notice of the impoundment, the Animal Control Officer may sell, give away, or humanely dispose of the animal.
- (2) If the unidentified owner of an impounded animal does not retrieve the animal within seven (7) days of the posting of the notice provided for in § VI(B), the Animal Control Officer may sell, give away, or humanely dispose of the animal.
- (3) Whenever an unretrieved animal is subject to the provisions of subsections (1) or (2), the preference shall be for the Animal Control Officer to sell or give away the animal, provided the animal is not a dangerous animal.
- (4) Notwithstanding subsection (C)(1), the Animal Control Officer may grant a reasonable extension of the time for retrieval if the owner is in the process of making a good faith attempt to retrieve the animal and the interests of justice so require.
- (5) If the unretrieved animal has been humanely disposed of, the owner shall be liable for all costs incurred by the Town.

XI: INVESTIGATION OF A DOMESTIC PET WHICH HAS BITTEN A PERSON

When a domestic pet or wolf-hybrid has bitten a person while the domestic pet or wolf-hybrid is off the premises of its owner or keeper, and the person bitten requires medical attention for the attack, investigation by an Animal Control Officer shall be done in accordance with the following procedures, pursuant to 20 VSA, Section 3546, as follows:

- (A) When a domestic pet has bitten a person while the domestic pet is off the premises of the owner, and the person bitten requires medical attention for the attack, such person 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 or victims, and any other facts that may assist the Select Board in conducting its investigation.

- (B) 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 domestic pet 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.
- (C) If the domestic pet is found to have bitten the victim without provocation, the Select Board shall make such order for the protection of persons as the facts and circumstances of the case may require, including, without limitation, that the domestic pet is disposed of in a humane way, muzzled, chained, or confined. The order shall be sent to the owner by certified mail, return receipt requested. 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 owner of any domestic pet found by the Select Board to be vicious shall keep such domestic pet under their physical control at all times. If such vicious domestic pet is not kept under the owner's physical control, even if on the owner's premises, such vicious domestic pet shall be immediately impounded. The fact that the owner was in the vicinity and readily able to take physical control of the vicious domestic pet shall not be a defense. The Select Board shall then hold a hearing, following the provisions of subsections (B) and (C), to determine whether modification of its original order is necessary.
- (E) The procedures provided in this section shall only apply if the domestic pet is not a rabies suspect. If a member of the Select Board or an Animal Control Officer determines that the animal is a rabies suspect, the provisions of 20 V.S.A. §§ 3801–3813 and the rules of the Vermont Department of Health shall apply.

XII: Management of Biting Animals, Rabies Suspect Animals, and Rabies Exposed Animals

- (A) Domestic pets, domestic animals, or wolf-hybrids which have bitten a person, or have been exposed to rabies or are suspected of being infected with rabies shall be managed by the Weathersfield Health Officer or Weathersfield Deputy Health Officer in accordance with 20 V.S.A. and Rules adopted by the Vermont Department of Health.
- (B) All costs associated with the management of the biting animal, rabies suspect animal, or rabies exposed animal shall be borne by the owner.

XIII. ENFORCEMENT

- (A) This is a civil Ordinance which shall be enforced in the Judicial Bureau, or, at the Select Board's election, the Superior Court, pursuant to 24 V.S.A. §§ 1974a, 1977.

- (B) The Weathersfield Health Officer and Deputy Health Officers, Town Manager, Constable, any Town law enforcement officer, any State or County employee duly authorized to enforce the provisions of this Ordinance, and any person duly appointed by the Select Board are hereby appointed Animal Control Officers to enforce the provisions of this Ordinance.
- (C) Any Animal Control Officer may use any reasonable means necessary to apprehend any domestic pet or domestic animal found to be in violation of this Ordinance and impound same.
- (D) It shall be unlawful to interfere with, hinder, or molest any Animal Control Officer in the performance of their duties, or to release or harm any domestic pet or domestic animal in the custody or possession of an Animal Control Officer.
- (E) Nothing in this Ordinance shall be construed to prevent a person from killing an attacking domestic pet in accordance with 20 V.S.A. §§ 3545, 3809.

XIV. PENALTIES

- (A) Any person found to have violated any section of this Ordinance shall be assessed a penalty of:
 - (1) First Offense: \$50.00 full penalty
\$35.00 waiver penalty
 - (2) Second Offense: \$75.00 full penalty
\$50.00 waiver penalty
 - (3) Third Offense: \$150.00 full penalty
\$100.00 waiver penalty
 - (4) Subsequent Offenses: \$150.00 full penalty
 - (5) Offenses shall be counted on a calendar year basis.
 - (6) Each day in which any violation continues or occurs shall be deemed a separate offense.
- (B) If the animal has been impounded, all fines and impoundment costs shall be paid before the animal is released from the pound.
- (C) The Select Board shall set the costs of impoundment from time to time.
- (D) The owner of any animal impounded under the provisions of this Ordinance shall be solely responsible for any boarding, veterinary fees and costs associated with the impoundment.

- (E) Any Person violating any of the provisions of this Ordinance shall become liable to the Town for any expense, loss, or damage occasioned by the Town, including reasonable legal expenses, by reason of such offense.

XV: Actions to Prevent, Restrain or Abate Violation

Notwithstanding any of the foregoing provisions, the Town may institute any appropriate action authorized by law, including injunction or other proceeding, to prevent, restrain, or abate any violation hereof, and in the case of emergency situations when, in the Town's determination, violations of the provision of the Ordinance may cause damage to human life or public property, the Town and its Animal Control Officers shall have the power to take whatever lawful action is necessary to correct such violations.

XVI. Board of Health and Health Officer

Nothing in this ordinance shall be construed to prevent the Weathersfield Board of Health, Health Officer, or Deputy Health Officer from carrying out their duties as prescribed in 18 V.S.A. Chapter 11.

XVII. INCONSISTENT ORDINANCES REPEALED

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

XVIII. SEVERABILITY

If any part or portion of this Ordinance is for any reason held to be unconstitutional, invalid, or ineffective by any court of competent jurisdiction, such decision shall not effect the validity or effectiveness of the remainder thereof.

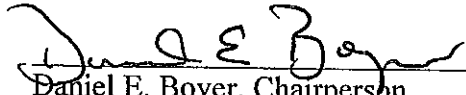
XIX. EFFECT


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


XX: Effective Date of Amendments

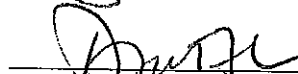
These Amendments to the Weathersfield Animal Control Ordinance as adopted on 12/18/08 shall become effective sixty (60) days from the date hereof, that is, on December 15, 2012.


Dated at the Town of Weathersfield, Windsor County, State of Vermont, this 15 day
of October, 2012.


Daniel E. Boyer, Chairperson


Norman John Arrison, Vice-Chairperson


Richard N. Clattenburg, Board Clerk


David T. Fuller, Member


Michael A. Todd, Member

ATTEST:

Received at the Town of Weathersfield
this ____ day of _____, 20 ____.

Flora Ann Dango, Town Clerk

