



TOWN OF WESTMINSTER

P.O. BOX 147 WESTMINSTER, VT 05158
Tel. 802-722-4255 Fax 802-722-9816

ANIMAL CONTROL ORDINANCE – OCTOBER 2018 (part 2)

Article I. General Provisions

A. Title

All rules and regulations contained herein, together with such additions and amendments as may be thereafter adopted, are hereby designated as the “Westminster Animal Control Ordinance”.

B. Authority

This ordinance is adopted pursuant to authority granted under 24 VSA Section 1971, 24 VSA Section 2291, subsections (10) and (14), 20 VSA Chapters 191 and 193.

C. Purpose

The purpose of this ordinance is to protect the health, safety, and welfare of the public, domestic pets, domestic animals, and wolf hybrids of the Town of Westminster by regulating the keeping of domestic pets, domestic animals, and wolf hybrids from running at large and defining what constitutes a public nuisance. In order to accomplish the foregoing purpose, it is deemed necessary to establish procedures for enforcement and establish penalties for violations of the ordinance.

D. Inconsistent Provisions

In the case of any other applicable regulation, by-law, ordinance or statute which differs from the rules and regulations of this ordinance, the stricter shall apply.

E. Civil Ordinance

This ordinance is designated as a civil ordinance in conformance with 24 VSA, Section 1971 (b).

Article II. Definitions

Unless the context specifically indicates otherwise, the meaning of terms used in this ordinance shall be as follows:

Animal Control Officer – Town Manager, Windham County Sheriff's Department, or any individual appointed by the Selectboard.

Dangerous Animal –

1. An animal, while running at large, which causes reasonable fear of bodily injury by attacking or threatening to attack a person, domestic pet, domestic animal, or wolf-hybrid;
2. An animal that is diseased and dangerous to the public health;
3. A wolf-hybrid which is not being confined within the proper enclosure as required by Article IV, Section F of this ordinance or which when outside of its enclosure, is not either in a cage or on a leash.

<u>Domestic Animals</u> -	Animals defined by 6 VSA, Section 1151(2) including, but not limited to, rabbits, cattle, sheep, goats, equines, deer, reindeer, American Bison, swine, poultry, pheasant, reptiles, and amphibians. The term does not include those species of amphibians native to Vermont. The term shall include cultured trout propagated by commercial trout farms.
<u>Domestic Pets</u> -	Any domestic dog, domestic cat, or European ferret (<i>Mustela putorius furo</i>) as defined by 20 VSA, Chapter 193, Section 3541.
<u>Humane Disposal</u> -	1. Humane euthanasia by the animal's Owner or by a licensed veterinarian, or 2. Sold or given away to a responsible person.
<u>Owner/Keeper</u> -	Shall mean any individual, institution, public or private corporation, partnership, or legal entity that owns or cares for a domestic animal which includes any person who has actual or constructive possession of the pet. The term also includes those persons who provide feed or shelter to a domestic pet. However, it is not the intent of the Town to require a person to be responsible under this ordinance for feral animals.
<u>Public Nuisance</u> -	Any menacing or aggressive behavior that causes injury, damage, disturbance, discomfort, or distress as defined by Article VI of this ordinance.
<u>Public Roadway</u> -	A public roadway is the area within 25' of the centerline of the traveled way on any State-owned or Town-owned highway or legal trail.
<u>Running At Large</u> -	This term means to move about without restraint, control, or limitation of property lines or areas. Clarifications: A. A domestic pet or domestic animal on a public road is considered restrained if it is on a leash and/or the Owner has control of the animal. B. A domestic pet or domestic animal off the Owners property and is constrained by a leash or is in the presence of a person and obedient to that person's commands and is not causing danger or nuisance is considered in control. C. A wolf-hybrid is considered restrained if, while outside of the enclosure required in Article IV, Section F of this ordinance is: 1.) In a cage; or 2.) On a large restrictive leash And is not causing danger or nuisance.
<u>Wolf-hybrid</u> -	Those animals defined by 20 VSA, Chapter 193, Section 3541 which states the following: "An animal that is the progeny or descendent of a domestic dog (<i>Canis familiaris</i>) and a wolf (<i>Canis lupus</i> or <i>Canis rufus</i>)". "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 & Wildlife (in Title 10, 3 Appendix, Chapter 1, Subchapter 3, #34).
<u>Working Farm Dog</u> -	This dog is defined by the State of Vermont as a dog that is "bred or trained to herd or protect livestock or poultry or to protect crops and is used for those purposes and that is registered as a working farm dog pursuant to subsection 3581 (a) of the Title".

Article III. Applicability of Ordinance

- A. Any dog being walked on a public roadway or legal trail must be restrained on a leash or under complete verbal control by the Owner/Keeper. Wolf-Hybrids will be leashed with an appropriate restraint at all times.
- B. 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.
- C. Any domestic pet, domestic animal or wolf-hybrid allowed to become or remain a public nuisance as herein defined shall be in violation of the ordinance and is subject to the fines established in this ordinance.
- D. Nothing in this ordinance shall be construed to restrict accepted agricultural practices.

Article IV. Licensing, Keeping, and Immunization of Dogs

- A. Annually on or before April 1st, it shall be the duty of every person within the Town owning a dog(s) or wolf-hybrid(s) more than six months old to:
 - 1.) Go to the Town of residency and purchase a license in accordance with Chapter 193, Title 20 of the Vermont Statutes.
 - 2.) Supply each dog or wolf-hybrid with a collar to display the newly purchased license.
 - 3.) Present an up to date vaccination certificate for each animal **being** registered with the Town.
- B. The Town will charge a fee for dog and wolf-hybrid licenses, as authorized by Chapter 193, Title 20 of the Vermont Statutes.
- C. Anyone who owns a Working Farm Dog, as defined above, will register it with the Town and pay \$5.00 for each working farm dog as per State **Statute** in addition to all other licensing fees required. The benefit to farmers of this license is that a working farm dog, when registered properly, is exempt from town regulation of barking or running at large when it is on the property **or leased property** of the farmer who registered it, and the dog is being used to herd or protect livestock, poultry, or crops. Without that working farm dog license, a town is free to ticket the owner/keeper for the offending dog's behavior, regardless of whether its owner operates a farm. The Town Clerk will keep all of the appropriate records for such dogs.
- D. As mentioned above, every dog or wolf-hybrid **Owner** will present an updated certificate of inoculation against rabies at the time of licensing.
- E. The Owner or Keeper of domestic pets or wolf-hybrids kept for breeding purposes will need to take out annually, on or before April 1st, a special license as authorized by 20 VSA, Section 3583 of the Vermont Statutes.
- F. The Owner or Keeper of two or more domestic pets or wolf-hybrids four months of age or older kept for sale or breeding purposes will need to take out annually, on or before April 1st, a kennel permit as authorized by 20 VSA, Section 3681 of the Vermont Statutes from the Town Clerk.
- G. Wolf-hybrid animals, except when in a cage or on a reliable leash and not causing a danger or nuisance, 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 entry of young children and to prevent the animal from escaping. Fencing shall be a minimum height of 8' and should be a heavy duty chain link fence with a 2' overhang to avoid unwanted entry or exit. The structure should have a concrete or asphalt apron with a catch pen to avoid escape and ease for veterinary care.
 - 2.) The structure should be a humane enclosure with appropriate shade and weather resistant for the animal.

Article V. Animal Control Officer

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

Article VI. Violations

A domestic pet, domestic animal, or wolf-hybrid in the following situations is hereby declared to be a public nuisance in violation of Article III above:

- A. The dog or wolf-hybrid has not been inoculated against rabies as required in 20 VSA, Chapter 193: or
- B. The dog or wolf-hybrid has not been licensed as required in 20 VSA, Chapter 193: or
- C. The dog or wolf-hybrid is not wearing a collar with its current and up to date license tags attached to the collar as required in 20 VSA, Chapter 193: or
- D. The domestic pet, domestic animal, or wolf-hybrid is exhibiting menacing behavior which causes injury, damage, disturbance, discomfort, distress, or reasonable fear of injury, damage, disturbance, discomfort, not been inoculated against rabies as required in 20 VSA, Chapter 193: or
- E. If the domestic pet, domestic animal, or wolf-hybrid breaches its Owner/Keeper's property and displays menacing behavior on the defined public domain, it is now in violation and subject to all penalties and fines explained in Article VII of this Ordinance.
- F. The domestic pet, domestic animal, or wolf-hybrid is being kept or maintained contrary to the conditions of a lawful order issued by the Westminster Selectboard under Article IX of the ordinance; or
- G. The domestic pet, domestic animal, or wolf-hybrid is running at large; or
- H. The domestic pet, domestic animal, or wolf-hybrid 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, domestic animal, or wolf-hybrid has defecated on private property onto which the animal has not been invited or on Public Roads or public property (including parking areas, lawns, gardens, parks and sidewalks) and the dog Owner does not remove the resulting material immediately and dispose of it in a sanitary manner; or
- J. A female dog in heat not confined to a building or other secured enclosure, except while under the direct control of the Owner/Keeper.
- K. The domestic pet, domestic animal, or wolf-hybrid, 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
- L. The domestic pet, domestic animal, or wolf-hybrid is barking, whining, calling, or howling for a continuous period of 15 minutes or more (Exceptions: The domestic pet, domestic animal, or wolf-hybrid in a kennel as defined and permitted in the Westminster Zoning Bylaws or to dogs involved in a legal permitted hunt); or
- M. The Owner or Keeper of two or more domestic pets, domestic animals, or wolf-hybrids four months of age or older kept for sale or breeding purposes, except for his or her own use, has not received a kennel permit, as required by Article IV, Section E; or
- N. The wolf-hybrid is not: Confined within a proper enclosure, in a cage, or on a reliable leash, as required by Article IV, Section F.

Article VII. Enforcement and Penalties

- A. Violations of this Ordinance:** Violations, **citizen complaints** and penalties will be handled by the Animal Control Officer on a case by case basis with knowledge of the Selectboard.
- B. Response to Violations by the Animal Control Officer:** When a domestic pet, domestic animal, or wolf-hybrid is found to be in violation of this ordinance, the Animal Control Officer may take one or more of the following steps:
 - 1.) Issue a verbal warning to the Owner or Keeper.
 - 2.) Serve the Owner or Keeper 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 stated in the letter shall be issued a "Municipal Complaint" (ticket) pursuant to 24 VSA, Sections 1974a & 1977 et. seq. with the acknowledgement of the Selectboard.

- 3.) Refer the Owner to the Selectboard for advice on the appropriate measures to be taken to avoid violations of this ordinance.
- 4.) Require that a domestic pet or domestic animal be restrained by a reliable leash while off the premises of its Owner.
- 5.) Issue a Municipal Complaint (ticket) per State Statutes because of the severity of the incident with acknowledgement of the Selectboard.
- 6.) Confine or impound the domestic pet, domestic animal, or wolf-hybrid to ensure public safety.

C. Fines

- 1.) Any person who violates any provision of this ordinance and is issued a Municipal Complaint (ticket) under this Article shall be subject to a civil penalty of up to \$220 per day for each day that such violation continues. Any authorized Animal Control Officer shall be able to act as the Issuing Municipal Official to issue and pursue before the traffic & Municipal Ordinance Bureau a municipal complaint.
- 2.) An Issuing Municipal Official is authorized to recover a waiver fee, in lieu of a civil penalty, in the following amounts, for any person who declines to contest a municipal complaint and pays the waiver fee:

First Offense	\$15
Second Offense	\$50
Third Offense	\$100
Fourth & Subsequent Offenses	\$220

All Offences Shall Be Counted On A Calendar Year Basis

- 3.) An Issuing Municipal Official is authorized to recover civil penalties in the following amounts for each Violation as per the Vermont Statutes:

First Offense	\$25
Second Offense	\$75
Third Offense	\$150
Fourth & Subsequent Offenses	\$250

All Offences Shall Be Counted On A Calendar Year Basis

- 4.) Each day in which any violation continues or occurs shall be deemed a separate offense.

D. Liability for Loss by the Town Due to the Violation

Any person violating any of the provisions of this ordinance shall become liable to the Town for any expense, loss, or damage suffered by the Town, including reasonable legal expenses, by reason of such offense.

E. Actions to Prevent, Restrain, or Abate the 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 shall have the power to take whatever action is necessary to correct such violations.

F. Board of Health and Health Officer

Nothing in this ordinance shall be construed to prevent the Local Board of Health or the Health Officer from carrying out their duties as prescribed in 18 VSA, Chapter 11.

Article VIII. Confinement and Impoundment

- A. Pursuant to 20 VSA, Chapters 191 and 193, an Animal Control Officer is authorized to confine or impound any domestic pet, domestic animal, or wolf-hybrid which is violating this ordinance or which is suspected of having been exposed to rabies, or is believed to have been attacked by another animal which may be rabid, or has been attacked by a wild animal, or has an unknown rabies vaccination history.

- B. In the event of a domestic pet, domestic animal, or wolf-hybrid is confined or impounded, the Owner, if known, shall be notified within 24 hours. Notification may be accomplished by in-person communication, telephone, email, or by a written letter sent to the last known address. If the Owner's address is not known, notification of the impoundment shall be posted in the Town Hall and two other places in Town for a period of one week. All costs for the confinement and/or impoundment will be the burden of the Owner to reimburse the Town for all appropriate costs.
- C. When an Animal Control Officer reasonably suspects that a confined or impounded domestic pet, domestic animal, or wolf-hybrid has been running at large in violation of Article VII, Section F, or has been exposed to rabies, or attacked by a rabid animal, the Animal Control Officer or Health Officer may euthanize and/or dispose of the animal in a humane manner, pursuant to Title 20, Section 3807. This Section also defines other options of the suspected animal if it is deemed acceptable to do so, like giving it back to the Owner or finding a new suitable home.
- D. If the domestic pet, domestic animal, or wolf-hybrid is unclaimed within 7 days of the notification of the Owner or within 7 days of posting, the Animal Control Officer may dispose of the dog in a humane manner subject to Section X below regarding impoundment for rabies control.
- E. If the unclaimed domestic pet, domestic animal, or wolf-hybrid has been disposed of, the Owner shall be liable for all costs incurred by the Town.
- F. No confined or impounded domestic pet, domestic animal, or wolf-hybrid shall be released until all necessary licenses and vaccinations are obtained and all fees associated with the confinement and/or impoundment are paid in full.

Article IX. Investigation of a Domestic Pet or Wolf-hybrid Which Has Bitten a Person

When a domestic pet, domestic animal, or wolf-hybrid has bitten a person while the domestic pet, domestic animal, 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 and/or Health Officer shall be done in accordance with the following procedures, pursuant to 20 VSA, Section 3546, as follows:

- A. When a domestic pet, domestic animal, or wolf-hybrid has bitten a person while the animal is off the premises of the Owner or Keeper, and the person bitten requires medical attention for the attack, such person shall report the attack to the Westminster Health Officer and may file a written complaint with the Westminster Selectboard. The complaint shall contain the time, date, and place where the attack occurred. It should also have the address of the victim or victims, Victim(s) name, facts about the incident, and recommended actions. The Selectboard will then be able to conduct an investigation according to Section B below.
- B. The Selectboard, within seven days from the receipt of the complaint, shall investigate the charges and hold a hearing on the matter. If the Owner of the domestic pet, domestic 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 the hearing. The written notice will also contained the facts of the complaint.
- C. If the domestic pet, domestic animal, or wolf-hybrid is found to have bitten the victim without provocation, the Selectboard shall make such order for the protection of the person(s) as the facts and circumstances of the case may require, including, without limitation, the domestic pet, domestic animal, or wolf-hybrid is disposed of in a humane way, muzzled, chained, or confined. The order shall be sent certified mail with return receipt requested. A person who, after receiving notice, fails to comply with the terms of the order shall be in violation of Article VII, Section E. of this ordinance. The Selectboard may seek injunctive relief as provided in 20 VSA, Section 3550(j).
- D. The procedures provided in Article IX shall only apply if the domestic pet, domestic animal, or wolf-hybrid is not a rabies subject. If a member of the Selectboard, Health Officer, or an Animal Control Officer determines that the animal is a rabies suspect, the provisions of Article X of this ordinance shall apply.

The above referenced guidelines are for a domestic pet, domestic animal, or wolf-hybrid which is off the premise of its Owner or Keeper. If the incident (bite or attack) happens on the premise where the animal lives, then the incident will be handled in the same manner as above, but it will be a Civil matter, not a Municipal matter. The investigation will take into consideration the obvious circumstances of the protective instincts of the animal.

Article X. Management of Biting Animals, Rabies Suspect Animals, and Rabies Exposed Animals

- A. Domestic pet, domestic animal, or wolf-hybrid which have bitten a person, or have been exposed to rabies, or are suspected of being infected with rabies shall be managed by the Westminster Health Officer.
- B. The Westminster Health Officer in accordance with 20 VSA and the Rules adopted by the Vermont Department of Health will be the lead on the investigation and/or actions needed.
- C. All costs associated with the management of the biting animal, rabies suspect animal, or the rabies-exposed animal shall be borne by the Owner.

Article XI. Severability – Liability – Amendments

- A. If any portion of this ordinance is held unconstitutional or invalid by a court of law of competent jurisdiction, the remainder of this ordinance shall not be affected.
- B. This ordinance may be amended at any time by the Westminster Selectboard pursuant to applicable provisions of the law.

Article XII. Ordinance in Force

- A. **Ordinance in Effect** - This ordinance shall be in full force and effect from and after its passage, approval, recording, and publication as provided by law, and hereby replaces in its entirety the Town of Westminster, Vermont; Animal Control Ordinance adopted July 13, 1999.
- B. **Date of Enactment** - Duly enacted and ordained by the Selectboard of the Town of Westminster, Windham County, State of Vermont, on this 12th day of September 2018, at a duly warned and duly held meeting of said Selectboard.
- C. **Effective Date** - This Ordinance shall become effective sixty (60) days from the date hereof.

Town of Westminster – Selectboard

K. Sheldon Beebe – Chair

Craig Allen – V. Chair

Susan Harlow – Clerk

Toby Young

Kevin Hughes