

Domestic Pet Nuisance Control Ordinance

TOWN OF WOODBURY

WOODBURY, VT.

Domestic Pet Nuisance Control Ordinance

Adopted by Woodbury Select Board on 6/1/2000 and effective 8/1/2000

Amended 12/13/01 and effective 2/17/2002;

Amended and adopted 3/28/11, effective May 27, 2011

Section 1. Purpose

The purpose of this Ordinance is to protect the health and general welfare of the residents of the Town of Woodbury. In order to accomplish the foregoing purpose, it is deemed necessary to establish a mechanism of review, provide for procedures for enforcement and appeal and, establish penalties for violation of this Ordinance pursuant to 20 V.S.A. Section 3549 and, 24 V.S.A. Section 2291.

Section 2. Definitions

- (A) For purposes of this Ordinance, the terms “domestic animal”, “domestic pet” or “pet”, “Legislative Body”, “Owner”, and “Wolf-hybrid” are defined as set forth in 20 V.S.A. Section 3541.**
- (B) “Respondent” is defined as set out in 20 V.S.A. Section 3541 and, in addition, includes any person alleged to have violated a provision of this Ordinance.**
- (C) “Public nuisance”. Any continuing or often repeated conduct by a domestic pet or pet or wolf-hybrid, which unreasonably annoys, injures, disturbs or intrudes upon the free or comfortable use of public lands in Woodbury is a public nuisance, including the acts specifically enumerated and defined in this Ordinance.**

Section 3. Enumeration of Public Nuisances

- (A) Vicious Dog or Wolf-hybrid. A dog or wolf-hybrid which causes reasonable fear of bodily injury by attacking, or threatening to attack, a person or a domestic animal off the premises of its owner or keeper, or, a dog or wolf-hybrid that is diseased and dangerous to the public health is a public nuisance.**

(B) Nuisance Dog or Wolf-hybrid. A dog or wolf-hybrid is a public nuisance when:

- (i)** repeatedly allowed or permitted to damage the property of anyone other than its owner, including but not limited to, turning over garbage containers, or damaging gardens, flowers or vegetables, or injuring domestic animals and pets; or,
- (ii)** maintained in an environment of unsanitary conditions or lack of cleanliness which results in offensive odor or, which is dangerous to the public health, welfare or safety, or, which substantially increases the probability of the transmission of disease; or,
- (iii)** repeatedly, continuously, or habitually allowed or permitted to bark in an excessive, continuing manner so as to interfere with the reasonable use and enjoyment of neighboring premises; or,
- (iv)** habitually or repeatedly leaves its owner's property and chases or snaps at pedestrians, joggers, dogs walked on leash, bicycles and their riders, vehicles; or,
- (v)** kept or maintained contrary to the conditions of a lawful order issued by the Select Board.

Section 4: General Violation

Any dog or wolf-hybrid allowed to become or remain a public nuisance as herein defined is subject to the provisions of this Ordinance. The owner of any dog or wolf-hybrid that is determined to be a public nuisance is subject to the penalties listed herein.

Section 5: Licensing of Dogs

It shall be the duty of every person owning, keeping or harboring any dog over six months of age within the Town of Woodbury to annually procure a license therefore on or before April 1, in accordance with Chapter 193, Subchapter 2, Title 20 of the Vermont Statutes Annotated as amended.

Section 6: Animal Control Officer Duties

- (A) The Select Board shall designate one or more persons to act as an Animal Control Officer to enforce the provisions of this Ordinance. It shall be the duty of the Animal Control Officer to investigate complaints of animal nuisances and to enforce the provisions of this Ordinance. The Animal Control Officer is authorized and empowered to take all reasonable and necessary measures to abate a public nuisance, subject to applicable law and this Ordinance.
- (B) An Animal Control Officer may take the following steps if he or she determines a dog or wolf-hybrid is not licensed as required by law.
- (i) In addition to the remedies set out in Chapter 193, Title 20 of the Vermont Statutes Annotated, as amended, the Animal Control Officer may take the animal to the Humane Society or impound the unlicensed dog or wolf-hybrid at the Town's designated pound. The pound owners or animal control officer may immediately take the animal to the Humane Society without confining it. If the owner of an unlicensed dog or wolf-hybrid is located and wishes to reclaim the dog, the Animal Control Officer may authorize the release of said dog or wolf-hybrid only after the owner obtains all required licenses and evidence of anti-rabies inoculation is produced. The owner shall pay to the Town a civil penalty of \$20.00 plus any charges incurred by the Town for impounding the dog. If the dog has been disposed of, the owner shall be liable for the amount of the foregoing civil penalty plus charges incurred by the Town.

Section 7. Notice of Violation

- (A) When an Animal Control Officer has reasonable grounds to believe that a person has violated a provision of this ordinance, the Animal Control Officer may issue a notice of the alleged violation as provided in 20 V.S.A. Section 3550(e)

and (f). A copy of such Notice shall be filed with the Select Board. The civil penalties imposed for a violation of this Ordinance are as follows:

(i) A written warning if a dog or wolf-hybrid is determined to be a nuisance, first offense; a civil penalty of from \$20.00 to \$50.00, plus charges, if the dog or wolf-hybrid is either (a) determined to be vicious, first offense, or, (b) is unlicensed for up and including to five calendar days.

(ii) \$50.00 to \$100.00 civil penalty, plus charges, if a dog or wolf-hybrid is: (a) determined to be a nuisance or vicious, second offense, or (b) unlicensed for six to thirty calendar days.

(iii) \$100.00 to \$200.00 civil penalty, plus charges, for a dog or wolf-hybrid is: (a) determined to be a nuisance or vicious, third offense, or, (b) unlicensed for more than thirty days.

(iv) \$200.00 to \$500.00 civil penalty, plus charges for a dog or wolf-hybrid is: (a) determined to be a nuisance or vicious, fourth or subsequent offense, or, (b) is unlicensed for more than thirty calendar days.

(B) The Animal Control Officer shall determine the amount of civil penalty for each offense pursuant to the foregoing schedule of offenses. In determining the amount of the civil penalty to be ordered, the Animal Control Officer shall consider the following: the degree of actual or potential impact on public health, safety and welfare resulting from the violation; whether the Respondent has cured the violation; the presence of mitigating circumstances; whether the respondent knew or had reason to know whether the violation existed; the Respondent's record of compliance; the deterrent effect of the penalty; the cost of enforcement; and, the length of time the violation has existed. The civil penalty shall be paid to the Town of Woodbury. If the respondent fails to pay the penalty within the time prescribed the Select Board may bring a collection action in small claims court, the superior court, or judicial bureau, as appropriate.

- (C) The Notice of the alleged violation shall also include a Statement that the Respondent has the right to request a hearing before the Woodbury Select Board, a description of the procedures for requesting a hearing, and a statement that failure to request a hearing within 21 days of the date of mailing or personal delivery of the Notice shall result in a final decision with no right of appeal.**

Section 8. Appeal Procedure

- (A) Action of the Animal Control Officer. A person who receives a Notice of Violation shall be offered an opportunity for a hearing before the Woodbury Select Board, provided that the request for hearing is made in writing to and received by the Woodbury Town Clerk no later than 21 days after the date of mailing or personal delivery of the Notice of Violation. If the person does not timely request a hearing, the Notice of Violation shall become final after 21 days from the mailing date thereof, and any civil penalty or cost assessed shall be payable within 35 days of the date of mailing or delivery of said Notice. If the respondent makes a timely request for a hearing, the Woodbury Select Board shall, after due notice, hold a hearing as soon as practicable after the request. After the hearing, the Woodbury Select Board may sustain, reduce, or eliminate the civil penalty assessed. Notice of the Select Board's decision shall be in writing and delivered in person or mailed to the appellant in the same manner as the Notice of Violation, and shall be effective five days following mailing of the decision or immediately following delivery of the decision.**
- (B) Action of Select Board. A respondent aggrieved by a decision made following a hearing before the Select Board may appeal within thirty days of receipt of the decision to the Washington Superior Court.**

Section 9. Savings

Nothing herein shall be construed to limit, supersede, repeal or annul any other law, ordinance, or regulation related to nuisances.

