

**TOWN OF NEW HAVEN
DOGS AND WOLF-HYBRIDS ORDINANCE**

SECTION 1. AUTHORITY. This ordinance is adopted by the Selectboard of the Town of New Haven under the authority of 20 V.S.A. § 3549; 24 V.S.A. §§ 2291 (10), (14), and (15); and 24 V.S.A. Chapter 59.

SECTION 2. PURPOSE. The purpose of this ordinance is to regulate the keeping of dogs and wolf-hybrids and to provide for their leashing, muzzling, restraint, impoundment, and destruction in order to protect the public health and safety of the Town and the quiet enjoyment of its residents' homes and properties.

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 purposes of this ordinance, this term, wherever used, shall also include "wolf-hybrids" as defined in State law and "service animals" as defined in the federal Americans with Disabilities Act, except where otherwise specified. This term also applies to "working farm dogs" which are so registered pursuant to 20 VSA §3581(a) to the extent that the application of this term to registered working farm dogs does not explicitly conflict with 20 VSA §3549.
- B. "Enforcement Officer" means any Town Constable, Police Officer, Animal Control Officer, Health Officer, or any other person designated as an Enforcement Officer by the Selectboard.
- C. "Owner" means any person who has actual or constructive possession of a dog: thus, this term applies to owners or persons in possession of a licensed and/or unlicensed dog or dogs. The term also includes those persons who provide food and shelter to a dog.
- D. "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.
- E. "Potentially vicious dog" means a dog which has been reported to the Selectboard, animal control officer, or other Town official, to have done any of the following while running at large: attack 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. A dog shall not be considered a “potentially vicious dog” if it is determined, by the Animal Control Officer in the first instance or by the Selectboard after hearing, that the dog was defending/protecting itself, its offspring, another domestic pet, animal, or a person from attack/assault, or if the person attacked or threatened by the dog was engaged in teasing, tormenting, battering, assaulting, injuring or otherwise provoking the dog.

- F. “Vicious dog” means a dog which has bitten a person or domestic animal while the dog is off the premises of its owner or keeper, and the person or domestic animal bitten requires medical attention for the attack.
- G. “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.
- H. “Service animal” means a service animal as defined by federal law, 28 CFR §35.104:

Service animal means any dog that is individually trained to do work or perform tasks for the benefit of an individual with a disability, including a physical, sensory, psychiatric, intellectual, or other mental disability. Other species of animals, whether wild or domestic, trained or untrained, are not service animals for the purposes of this definition. The work or tasks performed by a service animal must be directly related to the individual's disability. Examples of work or tasks include, but are not limited to, assisting individuals who are blind or have low vision with navigation and other tasks, alerting individuals who are deaf or hard of hearing to the presence of people or sounds, providing non-violent protection or rescue work, pulling a wheelchair, assisting an individual during a seizure, alerting individuals to the presence of allergens, retrieving items such as medicine or the telephone, providing physical support and assistance with balance and stability to individuals with mobility disabilities, and helping persons with psychiatric and neurological disabilities by preventing or interrupting impulsive or destructive behaviors. The crime deterrent effects of an animal's presence and the provision of emotional support, well-being, comfort, or companionship do not constitute work or tasks for the purposes of this definition.

SECTION 4. NUISANCES AND EXEMPTIONS

A. **Prohibitions.** An owner of a dog shall not allow, permit, or suffer such a dog to create a nuisance. The nuisance of **Potentially Vicious Dogs** is not included in this section and will be covered extensively in Section Nine. The following activities shall be deemed nuisances:

Nuisance One: Failure to remove waste

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.

Nuisance Two: Lack of collar or rabies tag

A dog found not wearing a collar or their to-date rabies tag.

Nuisance Three: Lack of current license and/or rabies tag

A dog that is not licensed and/or not registered with a rabies vaccination.

Nuisance Four: Disturbing the Peace

A dog that disturbs the quiet, comfort and repose of others by barking, whining, calling, or howling for a period of twenty (20) minutes or more, or for any period of time, intermittently or continuously, between the hours of 10 p.m. and 6 a.m., unless such hours or time periods are modified by explicit conditions for any zoning permit which may be issued by the Town for any commercial kennel or boarding facility.

Nuisance Five: Running at large

A dog running at large in the Town.

B. **Exemptions for Working Farm Dogs.** In accordance with 20 VSA §3549, the provisions of this section pertaining to running at large and disturbing the peace shall not apply to working farm dogs if the working farm dog is:

1. barking in order to herd or protect livestock, poultry, or crops; or
2. running at large in order to herd or protect livestock, poultry, or crops.

SECTION 5. ENFORCEMENT. Violations of this ordinance shall be a civil matter which may be enforced in the Vermont Judicial Bureau or in the Addison County Superior Court, at the election of the Selectboard.

Violations enforced in the Judicial Bureau shall be in accordance with the provisions of 24 V.S.A. §§ 1974a and 1977 et seq. For purposes of enforcement in the Judicial Bureau, any Enforcement Officer shall have the authority to issue tickets and represent the town at any hearing.

Violations enforced in the Superior Court shall be in accordance with the Vermont Rules of Civil Procedure. The Town of New Haven may pursue all appropriate injunctive relief.

SECTION 6. PENALTIES AND COSTS.

A.(i.) The Enforcement Officer is authorized to issue warnings, mandate mitigation steps as further defined in subsection (ii), issue fines and recover civil penalties for violations of Section 4 of this ordinance in the following amounts for initial and subsequent violations of those nuisances prescribed in Section 5 above:

Nuisance One: Failure to remove waste

1st Offense: warning or \$50.00 fine / \$25.00 Waiver

2nd Offense: \$100.00 fine / \$50.00 Waiver

3rd & Subsequent Offense: \$150.00 fine / \$75.00 Waiver

Nuisance Two: Failure to wear collar or harness with current license and/or rabies tag

1st Offense: warning or impoundment and/or \$50.00 fine / \$25.00 Waiver

2nd Offense: impoundment and/or \$100.00 fine / \$50.00 Waiver

3rd & Subsequent Offenses: impoundment and /or \$150.00 fine / \$75.00 Waiver

Nuisance Three: Lack of current license and/or rabies tag

1st Offense: warning or impoundment and/or \$50.00 fine / \$25.00 Waiver

2nd Offense: impoundment and/or \$100.00 fine / \$50.00 Waiver

3rd & Subsequent Offense: impoundment/or and \$150.00 fine / \$75.00 Waiver

Nuisance Four: Disturbing the peace

1st Offense: warning; or mitigation at the Animal Control Officer's direction, or impoundment and/or \$50.00 fine / \$25.00 Waiver

2nd Offense: mitigation or impoundment and \$100.00 fine / \$50.00 Waiver

3rd & Subsequent Offense: impoundment and/or \$200.00 fine / \$100.00 Waiver

Nuisance Five: Running at large

1st Offense: warning; or mitigation at the Animal Control Officer's direction, or impoundment and/or \$50.00 fine / \$25.00 Waiver

2nd Offense: mitigation or impoundment, and \$100.00 fine / \$50.00 Waiver

3rd & Subsequent Offense: impoundment and/or \$200.00 fine / \$100.00 Waiver

(ii.) Mitigation. The Animal Control Officer is authorized to order the owner to engage in mitigating steps designed to eliminate instances of a dog disturbing the peace or running at large. Any such mitigation ordered shall be proportionate to the nuisance and shall be methods or devices which are commonly available to the public through ordinary commercial suppliers. For running at large, such mitigation measures may include but are not limited to chaining, physical or electric fencing and kenneling. For disturbing the peace, such mitigation measures may include, but are not limited to muzzles, shock collars or ultrasonic anti-barking devices.

B. For purposes of determining the sequence of offenses, second and third offenses shall be those that occur within the 16-month period of the date of the first offense. Any offense occurring after this 16-month period shall be considered a new first offense.

C. For purposes of calculating the sequence of offenses, offenses shall be counted against the owner. That is, if an owner has more than one dog, all offenses of all dogs shall be combined for the purpose of calculating the number of offenses.

D. A warning shall not be counted towards the calculation of the number of offenses under this ordinance.

E. Considerations for Service Dogs and Working Dogs.

The provisions of this section apply to service dogs and working farm dogs except as exempted by state or federal statute. However, the Enforcement Officer in issuing civil penalties should consider the dog's status as a service dog or working farm dog as a mitigating factor in light of the importance they have to the life experience and livelihood of its owner.

SECTION 7. IMPOUNDMENT.

- A. **Grounds for Impoundment.** Any dog may be immediately impounded if the dog:
1. has been determined by an Enforcement Officer to be a "potentially vicious dog," which presents an imminent danger to people or other animals (**further elaborated upon in Section 9**);
 2. is found without a collar or harness and/or rabies tag;
 3. is in violation of State licensing law;
 4. has an unknown rabies vaccination history or is suspected of having been exposed to rabies;
 5. is unlicensed;
 6. is running at large;
 7. the owner is in possession of dogs which have accumulated 3 or more violations of this ordinance.

- B. **Notice of Impoundment.** The officer who impounds a dog shall, within twenty-four (24) hours, give notice to the owner thereof either personally, by telephone call, or by regular mail postage prepaid at the owner's last known address. Such notice shall inform the owner of the nature of the violations, the dog's location, and the necessary steps to have it returned to the owner.
- C. **Procedure for Unknown Owner.** 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. Notification shall be posted in the town clerk's office and other usual places for public notice for a ten (10) calendar day period. Posting shall also be made on Front Porch Forum as well as any other convenient online community sites, if any. The public notice shall include a description of the dog, including any significant marks of identification, and when and where it was impounded or found by the person placing the dog in the town's custody.

The public notice must also declare that, unless the owner 1) claims the dog, 2) pays all expenses incurred by the town for treatment, boarding and care of the dog, and any applicable penalties, and 3) takes all necessary remedial action within ten (10) calendar 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.

- D. **Release from Impoundment.** Impounded dogs shall be released to the owner only after payment of all penalties and impoundment fees (including but not limited to boarding, food, and veterinary expenses), the final disposition of a potentially vicious dog or vicious dog hearing if applicable, and after all necessary remedial action is taken by the owner. Remedial action shall include, but is not limited to, such actions as providing a collar and current license, verification of certification of current vaccination against rabies; payment of all applicable fines or waiver fees; and proof of satisfactory successful completion of a program designed to improve the owner's understanding of dog ownership responsibilities.
- E. **Procedure for Owner Negligence.** If the owner of a dog impounded under the provisions of this ordinance refuses to take the remedial action necessary 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. The owner of a dog transferred 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.

F. **Rabies caveat.** The procedures provided in this section shall only apply if the dog is not a rabies suspect. If an Enforcement Officer determines that the dog is a rabies suspect, the Selectboard shall immediately notify the Town Health Officer who shall proceed in accordance with the rules of the Vermont Department of Health.

SECTION 8. INVESTIGATION OF POTENTIALLY VICIOUS DOGS.

Any person claiming a dog is a “potentially vicious dog” as defined above may file a written complaint with the Selectboard. The complaint shall contain the time, date, and place where the alleged behavior occurred, the nature of the behavior, the name and address of any victim or victims, and any other facts that may assist the Selectboard in conducting its hearing.

Upon receipt of a “potentially vicious dog” complaint the Selectboard shall proceed as in the case of a “vicious dog” complaint, 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 other than the humane destruction of the dog.

SECTION 9. INVESTIGATION OF VICIOUS DOGS

A. Complaint.

When a dog has bitten a person or attacked another domestic animal while the dog is off the premises of its owner or keeper, and the person or domestic animal bitten requires medical attention as a result of the attack, such person may file a written complaint with the Selectboard of the municipality or the animal control officer. The complaint shall contain the time, date, place where the attack occurred, the name and address of the victim or victims, and any other facts that may assist the Selectboard in conducting its investigation.

B. Investigation and Setting Hearing Date.

The Selectboard shall, within seven (7) days from receipt of the complaint, investigate the charges, and hold a hearing. 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. Notice of hearing shall otherwise be warned as per meetings of the Selectboard.

C. Conduct of Hearing and Findings.

A vicious dog hearing is a quasi-judicial municipal proceeding. Witnesses shall testify under oath, and a record or minutes shall be kept of the proceedings. All exhibits (photographs, documents) shall be marked with the date and a number or letter, and noted in the record or minutes.

The person who filed the complaint, and the dog owner, (the parties) shall each have an opportunity, within time limits and other reasonable **conditions** set by the Selectboard, to make a statement, testify, and submit exhibits. Any additional witnesses, whether called by the complainant, the dog owner, the Selectboard, or appearing on their own volition, may testify if they have information which may be helpful to the Selectboard in making its decision. The Selectboard may call the Dog Control Officer or other Town officials to testify.

The Selectboard may ask questions of any party or witness and may ask the parties if they have any questions to ask of the other party or witnesses. All comments and questions must be directed to the Selectboard as a tribunal conducting the hearing; cross-conversation and argument directly between the parties and witnesses will not be permitted.

After the hearing, the Selectboard shall issue a decision in writing that includes their findings based on the evidence in the record. They will conclude as to whether the animal in question is a vicious dog or potentially vicious dog and impose any protective order or other penalties as described below. The Selectboard may enter deliberative session to develop their decision. The decision shall be issued in a timely fashion and in no case longer than fourteen (14) days after the hearing is held.

D. Protective Order and Other Penalties.

If the Selectboard finds that the dog is a vicious dog as defined above, the Selectboard shall make such order for the protection of persons as the facts and circumstances of the case may require, including without limitation that the dog is muzzled, chained, confined, or that the dog is disposed of in a humane way.

In the case of a potentially vicious dog, if the Selectboard finds that the dog is a potentially vicious dog as defined above, the Selectboard may impose such protective orders or penalties as the facts and circumstances may require, other than that the dog be disposed of in a humane way. In addition to a protective order, the Selectboard may also impose fines of up to \$500 per occurrence for each incident in which the dog or dogs were deemed to be a potentially vicious or vicious dog.

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 the penalties provided in 20 V.S.A. § 3550.

E. Mitigating Factors and Subsequent Offenses

When imposing protective orders or penalties regarding a complaint of a potentially vicious dog or a vicious dog, the Selectboard may consider certain mitigating factors, such as whether the dog was protecting or defending its owner, its offspring, or domestic animals under its protection (such as livestock or poultry), or whether the dog is a working dog or service dog. In such circumstances the Selectboard may consider imposition of protective orders or penalties such as mandatory dog training, muzzling, electric-fence set up, and other rehabilitative measures if the Selectboard determines that such measures will adequately protect the public, property, and other domestic animals.

When a dog, or another dog in the possession of the same owner, has previously been found to have engaged in the behaviors described above, or has previously been found to be a potentially vicious dog or vicious dog, and is subsequently found to be a potentially vicious dog or vicious dog, the Selectboard shall impose more stringent penalties and protective orders than had been imposed in the prior instances. If the Selectboard does not require the humane destruction of the dog on a subsequent finding that the dog, or another dog in the possession of the same owner, is potentially vicious or vicious, the Selectboard shall include in its decision a statement as to why it has determined that the penalties and protective order issued are adequate to protect the public after prior penalties and orders were ineffective.

F. Rabies suspect.

The procedures provided in this section shall only apply if the dog is not a rabies suspect. If a member of the Selectboard or a municipal official designated by the Selectboard determines that the dog is a rabies suspect, the provisions of Subchapter 5 of Title 20 Chapter 193 and the rules of the Vermont Department of Health shall apply. If the dog is deemed healthy, the terms and conditions set forth in the Selectboard's order shall be enforced.

SECTION 10. INJURED ANIMALS. If an animal is found injured and the owner of the animal cannot be determined, the animal control officer is not authorized to take injured animal to an animal hospital for medical treatment. The animal control officer is authorized to take the animal to a facility to have the injured animal humanely destroyed.

SECTION 11. OTHER LAWS. This ordinance is in addition to all other ordinances of the Town of New Haven and all applicable laws of the State of Vermont. All ordinances or parts of ordinances, resolutions, regulations, or other documents inconsistent with the provisions of this ordinance are hereby repealed to the extent of such inconsistency.

SECTION 12. 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 13. EFFECTIVE DATE. This ordinance shall become effective 60 days after its adoption by the New Haven Selectboard. If a petition is filed under 24 V.S.A. § 1973, that statute shall govern the taking effect of this ordinance.

Adopted this 2nd day of February, 2021.



February 2, 2021
DATE

Adoption History

1. Agenda item at regular Selectboard meeting held on February 2, 2021.
2. Read and approved at regular/special Selectboard meeting on February 2, 2021 and entered in the minutes of that meeting which were approved on February 16, 2021.
3. Posted in public places on February 11, 2021.
4. Notice of adoption published in the Addison Independent newspaper on February 18, 2021 with a notice of the right to petition.
5. Other actions [petitions, etc.]