

TOWN OF SPRINGFIELD
ORDINANCE 2007-1

SHORT TITLE: An ordinance to amend the Administrative Code;
Chapter 4. Animals
Article: II. Dogs (including wolf hybrids)
Section 4-26 to 4-40

CATEGORY: Minor Amendment

- PROCEDURE:
- 1) Introduction-First Review: July 16, 2007
 - 2) Second Review and Public Hearing: Read and amended at regular Select Board meeting on August 13, 2007 and entered in the minutes of that meeting which were approved on September 10, 2007.
 - 3) Additional Second Review and Public Hearing: Read and approved at regular Select Board meeting on September 10, 2007 and entered in the minutes of that meeting which were approved on _____.
 - 4) Posted in public places on September 11, 2007
 - 5) Notice of adoption published in the Springfield Reporter on _____ with a Notice of the Right to Petition.
 - 6) Other actions

AUTHORITY: This ordinance is adopted by the select board of the Town of Springfield under authority of 20 V.S.A. § 3549, 24 V.S.A. § 2291 (10), and 2291 (14) & (15),

PURPOSE: It is the purpose of this ordinance to regulate the keeping of dogs including wolf hybrids to protect public health and safety and to protect the residents' quiet enjoyment of their homes and properties.

Approved as to form: July 16, 2007
And as revised on September 6, 2007



Stephen S. Ankuda, Esquire
Town Attorney

ARTICLE II. DOGS+

Sec. 4-26. Definitions.

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Canine control officer shall mean the person designated by the Selectboard as responsible for dog control as prescribed by state statute or in his absence any sworn police officer of the town.

Dog shall mean any animal of the canine species, including a wolf-hybrid.

Owner shall mean the person or group of persons who own, harbor or keep any dog.

~~Public nuisance shall mean a dog which:~~

- (1) Obstructs pedestrian or vehicular traffic;
- (2) Bites, jumps upon or injures humans, other animals or dogs;
- (3) Damages public or private property; or
- (4) Disturbs the quiet, comfort and repose of others by habitual, persistent or frequent barking, whining or howling.

*Cross references-Administration, Ch. 2; health, sanitation, nuisances, Ch. 7; allowing diseased animals to run at large prohibited, § 7-47(2); animal carcasses to be disposed of within twenty-four hours after death, § 7-47(4); certain animals restricted, § 7-48; streets, sidewalks and other public places, Ch. 10; zoning, Ch. 15.

State law reference-Animals, 20 V.S.A. 3549.

+Cross reference-Nuisances, § 7-26 et seq.

State law reference-Animals, 20 V.S.A. 3549.

Restraint shall mean:

- (1) Secured by a leash or lead not more than eight (8) feet long or under the control of a responsible, competent person and obedient to that person's command;
- (2) Within the real property limits of the owner or upon private property with the permission of the owner of the private property;
- (3) Upon public property for properly defined purposes such as hunting; and/or
- (4) For dogs in heat, restraint shall be interpreted to mean being kept humanely confined to a building or secured enclosure and under control of the owner.

Running At Large means that a dog is not:

- (1) On a leash;
- (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.

Vicious dog means a dog that attacks any person or causes any person to reasonably fear attack or bodily injury from such animal, unless the person is trespassing on the property of the owner of the animal. The term shall also mean any animal that, while running at large, attacks another dog or animal, as defined in 20 V.S.A. § 3541.

Sec. 4-27. License required.

- (a) Any person owning, keeping or harboring a dog over six (6) months old within the town must obtain a license for that dog as prescribed by 20 V.S.A. §§ 3581 through 3592.
- (b) A surcharge of five dollars (\$5.00) per license shall be levied on all dog licenses issued to assist in the funding of dog control functions.
- (c) If an owner licenses a dog after April 1st, and before the board of selectmen issue the warrant, the owner shall be required to pay the dog licensing late fee as prescribed by 20 V.S.A. 3581(a).
- (d) Upon the issuance of the warrant by the Selectboard, any owner who is visited by the canine control officer or the town constable and is notified of the necessity of having the dog licensed shall be required to pay a ten-dollar (\$10.00) per dog penalty in addition to the licensing and late fees prescribed by 20 V.S.A. 3581(a).
- (e) Any owner, after being warned by the canine control officer or town constable pursuant to the dog warrant, who does not license their dog within seven (7) calendar days, shall immediately be cited for a fine of twenty-five dollars (\$25.00).
- (f) Any owner who, after the full provisions of this section have been followed, still does not license the dog shall be subject to having the animal impounded and destroyed as per the dictates of the warrant with any and all fines remaining as binding.

(Ord, No. 0-80-4, § II, 10-13-80)

Cross reference-Licenses and business regulations, Ch. 8.

Sec. 4-28. Restraint and prevention of public nuisance.

- (a) All dogs shall be kept under restraint as defined by section 4-26.
- (b) No owner shall fail to exercise proper care and control of a dog such that the dog becomes a public nuisance as defined by section 4-26.
- (c) Vicious dogs shall be handled as per the dictates of 20 V.S.A. Chapter 193. In addition, a dog which is suspected of being vicious against which a complaint has been issued shall be confined by the owner within a building or secured enclosure and shall be securely muzzled or caged whenever off the premises of the owner until such time as a final determination of its status is made.
- (d) A dog which has bitten a person shall be confined as per 20 V.S.A. Chapter 195 and such regulations adopted pursuant thereto.

(Ord. No. 0-80-4, § III, 10-13-80)

Cross reference-Nuisances, § 7-26 et seq.

Sec. 4-29. Unrestrained dogs impounded.

- (a) Any dog found unrestrained or running at large, either by discovery or complaint, shall be subject to impoundment by the canine control officer.
- (b) Any dog that is determined by a constable, police officer, canine animal control officer, humane officer to present an imminent danger to people or other animals shall be immediately impounded.
- (c) The first time a dog is observed running at large by the canine control officer or is impounded by the canine control officer, the owner, if known, shall be notified by written notice to keep the dog under restraint.
- (d) If after due notice pursuant to (c) above, a dog is observed by the canine control officer as not being under restraint or is impounded by the canine control officer while not under restraint, the owner of the dog shall be considered in violation of this article and subject to all penalties and fees in section 4-36.
- (e) Any dog that is apprehended for a third violation of this provision within a twelve (12) month period shall be impounded. If the dog is determined to be a vicious dog it shall be subject to euthanization.
- (f) Any dogs impounded shall be impounded in the designated impoundment facility or other appropriate facility.

(Ord, No. 0-80-4, § IV(A)-(D), 10-13-80)

Sec. 4-30. NOTICE OF IMPOUNDMENT AND RELEASE FROM IMPOUNDMENT.

- (a) The officer who impounds a dog shall, within 24 hours, 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 nature of the violations, the location of the animal and the steps that are necessary to have the animal returned to the owner.
- (b) If an impounded dog has no license or other identification, the person who impounds it shall proceed under the provisions of 20 V.S.A. § 3806.
- (c) Impounded animals shall be released to the owner only after payment of all penalties and impoundment fees and remedial action by the owner. Remedial action shall include but is not limited to such actions as providing a collar and current license and providing a plan for compliance with the provisions of this ordinance and with state law.
- (d) If the dog is not claimed by the owner within fourteen (14) days from the date of notification, or the owner provides written notice of surrender of ownership within the fourteen (14) day period then such dog shall be declared abandoned and disposed of in the discretion of the Selectboard.

~~Sec. 4-31. RECOVERY OF IMPOUNDED DOGS.~~

- (a) Impounded dogs may be recovered only after the payment of the required fees as set forth below:
- (1) *Unlicensed dogs:* No unlicensed dog can be recovered unless all license fees, surcharges, and penalties are paid and a license is obtained.
- (2) *Licensed dogs:* Impoundment fees and costs are to be paid as follows:
- (a) First impoundment, a fee of fifty dollars (\$50.00) paid to the town. An additional fee of one hundred dollars (\$100.00) will be assessed if the dog was transported to the impoundment facility by the canine control officer, plus any additional fees incurred per day paid to the impoundment facility.
- (b) Second impoundment in a twelve-month period, a fee of one hundred dollars (\$100.00) paid to the town. An additional fee of one hundred fifty dollars (\$150.00) will be assessed if the dog was transported to the impoundment facility by the canine control officer, and any additional fees incurred per day paid to the impoundment facility.
- (c) For the third impoundment and all impoundments thereafter in a twelve-month period, a fee of two hundred dollars (\$200.00) paid to the town. An additional fee of two hundred dollars (\$200.00) will be assessed if the dog was transported to the impoundment facility by the canine control officer, and any additional fees incurred per day paid to the impoundment facility.
- (d) Once an owner has ascertained that his dog has been impounded, a release must be obtained by paying all license and impoundment fees due at the town offices and remitting all fees due to the impoundment facility before the dog can be released.

(Ord. No. 0-80-4, § V, 10-13-80; Ord. No. 94-1, § II, 12-19-94)

Sec. 4-32. DOGS DECLARED A PUBLIC NUISANCE.

- (a) If, after investigation, the canine control officer finds that a dog is a public nuisance and/or not restrained, as defined in section 4-26, then any owner, keeper or harbored of the dog shall be issued a Vermont Municipal Complaint with a fine not to exceed five hundred dollars (\$500.00).
- (b) For the purpose of this section, a repeat violation within a twelve-month period shall constitute a successive case.

- ~~(c) If the dog is found to have bitten a 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, that the dog is euthanized, muzzled, chained or confined. The order shall be sent 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.

(Ord. No. 0-80-4, § VI, 10-13-80; Ord. No. 94-1, § II, 12-19-94; Ord. No. 95-1, 10-16-95)
Cross reference-Nuisances, § 7-26 et seq.

Sec. 4-33. HUMANE TREATMENT.

- (a) No owner shall fail to provide his dog with sufficient food, water, shelter and proper medical attention.
- (b) No person shall beat, cruelly treat, torment, overload, overwork or otherwise abuse a dog.
- (c) No person shall cruelly or permanently abandon a dog for any reason.
- (Ord. No. 0-80-4, § VII, 10-13-80)

Sec. 4-34. DAMAGE BY DOGS.

The owner of a dog shall be responsible for the costs of all damage done by his dog to public or private property as assessed by 20 V.S.A. Chapter 193.
(Ord. No. 0-80-4, § VIII, 10-13-80)

Sec. 4-35. RESERVED.

Editor's note--Ord. No. 94-1, § II, adopted Dec. 19, 1994, repealed § 4-35 in its entirety. Former § 4-35 pertained to due process and appeals, and derived from Ord. No. 0-80-4, § X, adopted Oct. 13, 1980.

Sec. 4-36. ENFORCEMENT AND FINES

- (a) The Canine Control Officer or the Selectboard may impose a civil penalty of up to \$500.00 per violation in accordance with the provisions of this section.
- (b) In determining the amount of the civil penalty to be ordered for violations other than as set forth in this chapter, the Selectboard or Canine Control Officer shall consider the following:
- (1) The degree of actual or potential impact on public health, safety, and welfare resulting from the violation
 - (2) Whether the respondent has cured the violation.
 - (3) The presence of mitigating circumstances.
 - (4) Whether the respondent knew or had reason to know the violation existed.
 - (5) The respondent's record of compliance
 - (6) The deterrent effect of the penalty.
 - (7) The cost of enforcement
 - (8) The length of time the violation has existed.

~~e) When the Selectboard or Canine Control Officer has reasonable grounds to believe that a person has violated a provision of this chapter under its purview, the Selectboard or Canine Control Officer may issue a notice of the alleged violation, which shall be delivered to the respondent in person or mailed to the respondent by registered mail. The notice of violation shall include:~~

- (1) A civil penalty of up to \$500.00.
- (2) A brief description of the alleged violation and identification of the law alleged to have been violated.
- (3) A statement that the respondent has a right to a hearing before the Selectboard at no cost to the respondent, 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 of the notice shall result in a final decision with no right of appeal.
- (4) If applicable, a directive that the respondent take actions necessary to achieve compliance with the law.

(d) A person who receives a notice of violation shall be offered an opportunity for a hearing before the Selectboard provided that the request for hearing is made in writing to the clerk of the municipality no later than 21 days after the date of mailing of the notice of violation. If the respondent does not request a hearing in a timely fashion, the decision shall be final and the penalty shall be payable within 35 days following mailing of the notice of violation. If the respondent does make a timely request for a hearing, the Selectboard shall hold a hearing within 14 days of receipt of the request. After the hearing, the Selectboard may affirm, reduce or eliminate the penalty. The decision shall be delivered or mailed to the respondent 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 decisions.

(e) Imposition of a penalty under this subchapter precludes imposition of any other administrative or civil penalty under any other provision of law for the same violation.

(f) The civil penalty shall be paid to the Town of Springfield. If the respondent fails to pay the penalty within the time prescribed, the Selectboard may bring a collection action in small claims court or the superior court.

(g) A respondent aggrieved by a decision made following a hearing before the Selectboard may appeal within 30 days of receipt of the decision to the superior court which shall consider the matter de novo.

(h) On application of a municipality, the superior court shall have jurisdiction to enjoin the violation of any provisions of this chapter. The court may also authorize the seizure and disposition of domestic pets or wolf-hybrids when owners refuse to have the pets or wolf-hybrids inoculated or licensed, or when the court determines that there is a threat to the public welfare.

Sec. 4-37. WAIVER FINES.

The waiver fines for violations under Chapter 4 shall be fifty (50%) percent of the applicable fine.
(Ord. No. 94-1, § II, 12-19-94)

Sec. 4-38. POOPER SCOOPER. The person in control of a dog that defecates in any public area or on the private property of another person shall immediately remove the fecal material and dispose of it in a sanitary manner.

- ~~(a) Any violation of this section will constitute a public nuisance and the fines applicable, after such determination, shall be levied upon the person in control of such dog.~~

Sec. 4-39. INVESTIGATION OF VICIOUS DOGS.

- (a) When a dog has bitten a person while the dog ^{is} off the premises of the owner or keeper, 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, 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 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 and place of hearing and the facts 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, that the dog is euthanized of, muzzled, chained or confined. The order shall be sent 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 procedures provided in this section shall only apply if the dog is not a rabies suspect. If a member of the Selectboard or the Canine Control Officer determines that the animal is a rabies suspect, the provisions of Sub-chapter 5 of Title 20 Chapter 193 and the rules of the Department of Health shall apply.

Sec. 4-40. ENFORCEMENT.

- (a) This is a civil ordinance and shall be enforced by the constable, police, canine control officer in the Vermont Judicial Bureau in accordance with 24 V.S.A. §§ 1974a et seq.

EFFECTIVE DATE: This ordinance shall become effective 60 days after its adoption by the Springfield select board. If a petition is filed under 24 V.S.A. § 1973, that statute shall govern the taking effect of this ordinance.

Springfield Select Board

Dated: September 10, 2007

Mary Helen Hawthorne
John Hall
Bruce A. Bender
John Swanson
Mark A. Blanchard