

Chapter 4.04

DOG LICENSING AND CONTROL

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4.04.000 Authority

- A. This ordinance is enacted pursuant to 24 V.S.A. § 2291, et seq. and 20 V.S.A. § 3549. It shall constitute a civil ordinance within the meaning of 24 V.S.A., Chapter 59.

04.04.010 Purpose

- A. 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 preserve the quiet enjoyment of its residents' homes and properties.

4.04.020 Definitions

Used in this chapter, unless the context indicates otherwise:

- A. **Dog:** shall mean an animal of the canine species, and wolf-hybrid as defined in 20 V.S.A. § 3541.

- B. **At large:** means off the premises of the owner except for those areas as defined in subsection B of 4.04.080, and not under the control of the owner, a member of their immediate family, or an agent of the owner, by leash, cord or chain so that at all times the dog may be prevented from causing any damage, disturbance, nuisance or annoyance.
- C. **Municipal official:** shall mean Animal Control Warden of the Town of Essex or any police officer; deputy sheriff; or any person designated by the Town of Essex for the control of dogs.
- D. **Owner:** means any person who has actual or constructive possession of a dog. The term also includes those persons who provide food and shelter to a dog.
- E. **Premises:** means the home and real property of the dog owner.
- F. **Potentially Vicious Dog:** shall mean a dog running at large that inflicts minor injuries on a person not necessitating medical attention; chases in a menacing manner, threatens to attack or attacks another domestic pet or domestic animal; causes damage to personal property; chases a person; or causes any person to reasonably fear attack or bodily injury from such dog. This definition shall not apply if the dog was protecting or defending itself, its offspring, another domestic pet or animal or a person from attack or assault or the person attacked or threatened by the dog was engaged in teasing, tormenting, battering, assaulting, injuring or otherwise provoking the dog.
- G. **Vicious Dog:** shall mean a dog, which causes bodily injury by attacking, biting or previously bitten or endangered the safety of a person or other domestic animal on any public or private property, unless the person is trespassing on the property of another animal, was protecting or defending itself, its offspring, another domestic pet or animal or a person from attack or assault or the person attacked or threatened by the dog was engaged in teasing, tormenting, battering, assaulting, injuring or otherwise provoking the dog.

4.04.030 License requirements

- A. Dogs must be registered and licensed annually in accordance with the Town Clerk's Office, pursuant to 20 V.S.A. § 3581.
- B. All dog owners shall obtain and be required to demonstrate proof of current rabies vaccinations, a certificate or a certified copy thereof signed by a duly licensed veterinarian as a requirement of the annual license application.
- C. All dogs must wear a collar or harness with current license attached. Any dogs visiting from another town, city or state must wear a collar or harness with current license of said jurisdiction. A dog that is found to be without a collar or harness and license shall be in violation of this ordinance.

4.04.040 Falsifying documents

- A. No owner shall knowingly present false documentation to the Town Clerk's Office with the purpose of misleading the breed of the dog. This shall also apply to proof of rabies vaccination certificates.

4.04.050 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 Legislative Body for the Town of Essex. 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 legislative body in conducting its investigation required by subsection (B) of this section.
- B. The legislative body, within seven (7) days from receipt of the complaint, may request the police department to investigate the charges and hold a hearing on the matter. If the owner of the domestic pet 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 hearing and the facts of the complaint.
- C. If the dog is found to have bitten the victim without provocation, the legislative body for the Town of Essex 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 or wolf-hybrid is disposed of in a humane way, 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 apply if the dog is not a rabies suspect. If a member of the legislative body or a municipal official designated by the legislative body determines that the animal is a rabies suspect, the provisions of 20 V.S.A. Chapter 193, Subchapter 5, and the rules of the department of health shall apply, the terms and conditions set forth in the legislative body's order shall be enforced.

*Cross reference. General Provisions,
See 20 V.S.A. § 3546; Penalties,
See 20 V.S.A. § 2550; Control of Rabies,
See 20 V.S.A. § 3801-3813.*

4.04.060 Potentially Vicious Dogs

- A. A person claiming a dog is a "potentially vicious dog" may file a written complaint with the legislative body. The complaint shall contain the time, date and place where the alleged

behavior occurred, an identification of the domestic pet or animal threatened or attacked; the name and address of any victim or victims, and any other facts that may assist the legislative body in conducting its hearing.

- B. A municipal official upon discovery of a potentially vicious dog may also file a written complaint with the legislative body of the legislative body. Upon receipt of a “potentially vicious dog” complaint the legislative body may proceed as in the case of a “vicious dog” complaint with the exception that if the legislative body determines that the behavior classifies the dog as “potentially vicious” the legislative body may order any protective measures be taken absent the dog being humanely destroyed.

4.04.070 Dog Bites

- A. No person shall permit or cause any dog to cause bodily injury to a person or other domestic animal.

4.04.080 Disturbance by sound

- A. No person shall keep or harbor a dog that disturbs the quiet, comfort and repose of others by frequent or long continued barking, whining, calling, or howling that disturbs the comfort or repose of persons in the vicinity for a continuous period of 15 minutes or more. *“This regulation shall not apply to dogs in a kennel or boarding facility which has received a zoning permit under the Town of Essex - Zoning Regulations. The zoning permit will govern the use of the kennel or boarding facility.”]*

4.04.090 Running at large

- A. No owner shall permit or cause any dog to go at large off the premises on any public or private property within the Town of Essex. Dogs shall be restrained by leash, cord or chain. All dogs using a town sidewalk, recreational or bicycle path, and parking areas must be leashed on a leash that is no longer than six (6) feet.
- B. Exemptions - Dogs shall be under control of the owner, but may be unrestrained by leash, cord or chain:
 1. In Saxon Hill Forest, except for the parking areas.
 2. In undeveloped area of Indian Brook Park, which includes any areas except for the following: boat launch area, boat launch parking area, upper parking lot, lower parking lot, dam and beach area, and picnic area on east side of Indian Brook Dam and must be 300 yards away from the parking lots on a trail system before being unleashed.
 3. In the dog park located at 111 West Street, according to the regulations for use of the park.
 4. While hunting with the owner.

4.04.100 Dog Waste

- A. 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 is in violation of this ordinance.

4.04.110 Impounding—Contracting for services

- A. The legislative body may enter into a contract or contracts with persons or firms for impoundment services and enforcement of this chapter.

4.04.120 Impounding—Authorized when—Notice to owner

- A. Any dog may be immediately impounded if the dog:
 - 1. Has been determined by a municipal official to be a “potentially vicious dog” which presents an imminent danger to people or other animals.
 - 2. Has reportedly bitten a person off or on the premises of the owner.
 - 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 running at large.
 - 6. Is found without a collar or a harness.
- B. A municipal official who impounds a dog shall, within twenty-four hours, given notice to the owner thereof either personally, by telephone, email or by regular mail postage to the owner’s last known address. Such notice shall inform the owner of the violations, the dog’s location, and the necessary steps to have it returned to the owner.

4.04.130 Impoundment—Release conditions

- A. 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, as determined by the enforcement officer and or legislative body in consideration of the violation committed, 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 and execution of dog ownership responsibilities.
- B. 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) calendar days following notice of impoundment or gives notice either personally, by telephone call, or in writing to the municipality of forfeiture of ownership before that time, the dog may be placed in an adoptive home, transferred to a humane society or rescue organization; or, if the town is unable to transfer the dog, it may be humanely destroyed. The owner of a dog transferred or humanely destroyed 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.

- C. The procedures provided in this section shall only apply if the dog is not a rabies suspect. If an official designated by the legislative body to enforce the provisions of this ordinance determines that the dog is a rabies suspect, the municipal official shall immediately notify the Municipal Health Officer who shall proceed in accordance with the Vermont Department of Health's rules.

4.04.140 Unclaimed dogs—Disposition

- A. Unless sooner redeemed by payment, it shall be the duty of the pound keeper or other official designated by the legislative body to keep all dogs so impounded for a period of seven days. If, at the expiration of seven (7) days from the initial date of impoundment, such dog shall not have been redeemed, it may be sold, given away or destroyed. Any proceeds from the sale of the impounded dog, over and above impoundment fees, license fees and other charges required under this chapter, shall be paid over to the owner, if any is found.

4.04.150 Unclaimed dogs—Owner responsible for costs

- A. Any owner, if known, who elects not to redeem their dog and does not pay the boarding fees and impoundment fees within thirty (30) days of initial impoundment, may be assessed all of such fees and charges in a civil action brought under this chapter.

4.04.160 Interference with impoundment prohibited

- A. Any person who interferes with the impounding of a dog under provision of this chapter, or releases or who attempts to release an impounded dog contrary to this chapter, shall be punished by fees not to exceed eight hundred dollars (\$800.00) in an action brought under this chapter.

4.04.170 Confinement of Animals

- A. An owner shall not leave an animal unattended in a standing or parked motor vehicle in a manner that would endanger the health or safety of the animal.
- B. Any municipal official may use reasonable force to remove any such animal from a motor vehicle. The municipal official removing an animal shall deliver the animal to a humane society, veterinarian or municipal pound. If the owner of the animal cannot be found, the municipal official shall place a written notice in the vehicle, bearing the name of the officer and the department and address where the animal may be claimed. The owner shall be liable for reasonable expenses, and a lien may be placed on the animal for these expenses. The officer may not be held liable for criminal or civil liability for any damage resulting from actions taken under this section.

*Cross reference. Humane and Proper Treatment of Animals,
See 13 V.S.A. § 386.*

4.04.180 Enforcement

A. This is a civil ordinance and shall be enforced in accordance with 24 V.S.A. § 1974a et seq.

4.04.190 Violations – Penalties

A. Any person in violation of any provisions of this chapter shall be fined pursuant to Chapter 4.04 Section 4.04.180. If any violation continues, each day shall constitute a new violation.

1. Waiver Fees

a. An issuing municipal official is authorized to recover a waiver fee, in lieu of a civil penalty, for any person who declines to contest a municipal complaint and pays the following waiver amount for each violation:

First Offense	\$50.00
Second Offense	\$100.00
Third Offense	\$200.00
Forth and subsequent Offense	\$400.00

Offenses shall be counted on a calendar year basis.

2. Civil Penalties

a. An issuing municipal official is authorized to recover civil penalties in the following amounts for each violation:

First Offense	\$100.00
Second Offense	\$200.00
Third and subsequent Offense	\$400.00
Forth and subsequent Offense	\$800.00

Offenses shall be counted on a calendar year basis.

3. In addition to the enforcement procedures available before the Judicial Bureau, the Manager or their designee is authorized to commence a civil action to obtain injunctive and other appropriate relief, or to pursue any other remedy authorized by law.

4.04.200 Severability

A. If any portion of this ordinance and any amendments made hereto are held unconstitutional or invalid by a court of competent jurisdiction, the remainder of this ordinance and amendments made hereto shall not be affected and shall remain in full force and effect. If any statute referred to in this ordinance shall be amended this ordinance shall be deemed to refer to such statute as amended.