

Town of New Durham  
Dog Ordinance  
TO.03.008

The following Ordinance has been enacted by the Selectmen of New Durham, N.H. pursuant to the powers granted them in RSA 41:11 and RSA 47:17 (VII).

A. ANIMAL CONTROL OFFICER

That person(s) designated / appointed by the Board of Selectmen to enforce the terms of this Ordinance.

B. AT LARGE

Shall be intended to mean off the premises or property of the owner / keeper while not under the control of the owner / keeper, control shall be exercised by means of a leash, cord or chain. This requirement may be waived at any time at the discretion of the Police or Animal Control Officer in which case control shall be exercised by personal presence and such attention will reasonably control the conduct of the dog. At **no time** without the property owner's permission, shall any dog be permitted on the private property of another person. The leash requirement shall not apply to any dog being shown at a dog show, or while used in hunting or attending obedience or training class.

C. DOG

Shall be intended to mean both male and female, neutered or spayed and including puppies, so called.

D. ENCLOSURE

Shall be intended to mean a fence or structure of at least six feet in height, forming or causing an enclosure suitable to prevent the entry of young children. The enclosure shall be securely enclosed and locked and designed with secure sides, top and bottom as to prevent the escape of the dog.

E. OWNER

Shall be intended to mean any person(s), corporations, businesses, firms or associations keeping, harboring, owning, feeding or allowing to remain on the property or premises, or acting as caretaker or custodian of a dog for another person. Whenever the term "owner" is used throughout this ordinance, it shall refer to the owner or keeper.

#### F. TORTURE ,CRUELTY , NEGLECT

Shall be intended to mean any act or deed or the omission of any act or deed so that any animal, wild or domestic or tamed, shall be tormented, suffer, caused pain or die from lack of shelter, food, care or neglected to the extent that suffering, pain, or death is caused.

#### G. TRESPASSER

Shall be intended to mean anyone who enters or remains on the private property of another who has not been authorized to do so by the owner or occupier of the property. This shall not be intended to include mailmen, utility personal, or any delivery person on the premises at the request of the owner or occupier of the property where a dog is kept, or any person invited on the premises by the owner or occupier.

#### H. DOGS CONSIDERED A MENACE, A NUISANCE OR VICIOUS

1. Under this section, a dog is considered to be a nuisance, a menace, or vicious to persons or to property under any or all but not limited to the following conditions.

- a. Any dog, which bites or attacks any human being or other domestic animal. An animal shall not be deemed vicious if it bites, attacks, or threatens a trespasser on the property of its owner or harms or threatens anyone who has tormented or abused it or if it demonstrates such aggressive behavior when provoked.
- b. If it barks for sustained periods of more than ½ hour, or during the night hours so as to disturb the peace and quiet of a neighborhood or area.
- c. If it digs, scratches, or excretes, or causes waste or garbage to be scattered on property other than its owner.
- d. If any female dog in season (heat) is permitted to run at large or be off the premises of the owner or keeper during this period except when being exercised on a leash by a reasonable adult. At all other times such dog shall be confined within a building or enclosure in such a manner that she will not come in contact (except for intentional breeding purposes) with a male dog. A female dog in heat shall not be used for hunting.
- e. If it growls, snaps at, runs after or chases any person or persons.
- f. If it runs after, or chases bicycles, motor vehicles, motorcycles, or other vehicles being driven, pulled or pushed on the streets, highways, or public ways.

- g. If, whether alone or in a pack with other dogs, it bites, attacks, or preys on game animals, domestic animals, fowl or human beings.

## 2. CONFINEMENT OF CERTAIN DOGS

- a. It shall be unlawful to permit any female dog in season (heat) to run at large or be off the premises of the owner during such period and such dog shall be confined within a building or enclosure in such a manner that she will not be in contact ( except for intentional breeding purposes) with another dog.
- b. Any dog found to be vicious under this ordinance shall be kept at all times in a locked enclosure on private property or entirely within the dwelling of the owner or keeper. Vicious dogs shall not be permitted on public streets or any other public property except when muzzled and restrained by a chain having a minimum tensile strength of three hundred pounds and not exceeding three feet in length. Vicious dogs so restrained shall be accompanied by an able-bodied person at all times while off the owner/keeper's premises.
- c. Once a dog has been declared vicious it shall not be kept on any private property until an enclosure has been installed. After the installation of the enclosure, it shall be inspected and approved by the Animal Control Officer prior to the dog being kept on the property.
- d. Any person keeping a vicious dog shall display a sign on the premises where the dog is kept warning that there is a vicious dog on the premises. The sign shall be visible and capable of being read from the public roadway.

## H. DETERMINATION OF VICIOUS DOG

1. Upon a written complaint of a vicious dog, signed under oath by a private citizen, or in the event either the Animal Control Officer or a law enforcement officer has probable cause to believe that a dog is vicious, the Animal Control Officer or Chief of Police may convene a public hearing for the purpose of determining whether or not a dog is vicious.
2. The hearing shall be held no less than five nor more than ten days after service upon the owner or keeper via certified mail or service in hand by a law enforcement officer.

3. The hearing shall be held before a three-member panel including the Chief of Police, a Selectmen or his designee, and a resident of New Durham appointed by the Board of Selectmen. When deemed necessary by the Chief of Police, the Town Attorney or his designee shall attend the hearing. At the determination hearing, the owner or keeper may present evidence as well as the complaint and Animal Control Officer. The hearing shall be informal and open to the public.
4. Within five days of the hearing, the panel shall inform the owner or keeper of its determination. Thereafter, any dog determined to be vicious shall only be kept in accordance with this Ordinance.
5. If the owner or keeper of a dog that has been determined to be vicious wishes to appeal that determination he/she may do so within three days of the panel's decision. This appeal shall be made to the Judge of the Rochester District Court and his/her decision will be final.

#### I. CUSTODY AND IMPOUNDMENT

The Animal Control Officer, or any police officer may take into custody and impound:

1. Any dog off the premises of the owner or keeper "running at large"
2. Any female dog which is a public nuisance as defined in this Ordinance.
3. Any dog at any time off or on the premises of the owner or keeper not licensed and rabies vaccinated as required by the RSA's of New Hampshire.
4. Any dog at any time on or off the premises of the owner or keeper if the owner or keeper fails to cooperate and/or assist the Animal Control Officer or police officer in the case of a dog bite or investigation of a dog bite.
5. If, after preliminary investigation, the Animal Control Officer/police officer determines that a dog bit a human, then the Animal Control Officer or police officer may issue a written order for the owner or keeper to deliver up said animal or to remove the animal from the premises to a veterinary kennel, impounding area, boarding facility or other agreed upon place of confinement or restraint. Such restraint or confinement shall continue until the Animal Control Officer, the Chief of Police or his representative releases the animal from custody. The decision to confine or restrain the animal may be changed, modified or overruled by the Judge of the Rochester District court. The owner shall be liable for the expense of confinement or boarding.
6. In cases where a written complaint of a vicious dog is made pursuant to Section H.1, the Animal Control Officer or police officer may take the dog into custody

and impound the dog pending the determination of the hearing, and where appropriate, a satisfactory inspection under Section H.2 (b,c.). If the dog is determined to be vicious, the expense of confinement or boarding shall be paid by the owner or keeper. If it is determined not to be vicious, the expense shall be borne by the town.

7. In cases where the owner is convicted on two or more occasions of having a public nuisance dog, and where the cause of such public nuisance is running after or chasing bicycles, people, and/or motor vehicles, the Animal Control Officer or police officer may impound the dog pending a Court determination of the public nuisance violation.
8. If a dog has been deemed vicious and is later found at large, pursuant to the definition of Section B, the Animal Control Officer or police officer may impound the animal. If impounded, the animal shall not be released until disposition of the case in Court. The cost of the impoundment shall be borne by the owner.
9. In cases where a written complaint of a public nuisance dog is made to the Animal Control Officer or police officer, and basis of the complaint is that the animal is demonstrating aggressive and threatening behavior, then the Animal Control Officer or police officer may take the dog into custody and impound pending the determination of the hearing. The expense of confinement or boarding shall be paid for by the owner or keeper only if the Court convicts on the charge, otherwise the expenses are borne by the Town.
10. In any case under this section where custody of the dog is retained by the Town and the dog is impounded , then the Town, in addition to any other penalty imposed, reserves the right to use all available remedies to acquire custody of the dog pending disposition of the case.

## J. PENALTIES

1. Running at large
  - a. 1<sup>st</sup> offense \$25.00 fine
  - b. 2<sup>nd</sup> offense \$50.00 fine within one year
  - c. 3<sup>rd</sup> offense Must appear in Court
2. Nuisance
  - a. 1<sup>st</sup> offense \$25.00 fine
  - b. 2<sup>nd</sup> offense \$50.00 fine within one year
  - c. 3<sup>rd</sup> offense Must appear in Court
3. Vicious, at large
  - a. 1<sup>st</sup> offense \$100.00 fine

b. 2<sup>nd</sup> offense Must appear in Court

4. Unlicensed dog

a. \$1.00 a month after June 1<sup>st</sup>.

K. EFFECTIVE DATE

This Ordinance shall become effective May 1,2003.

New Durham Board of Selectmen

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Town Clerk