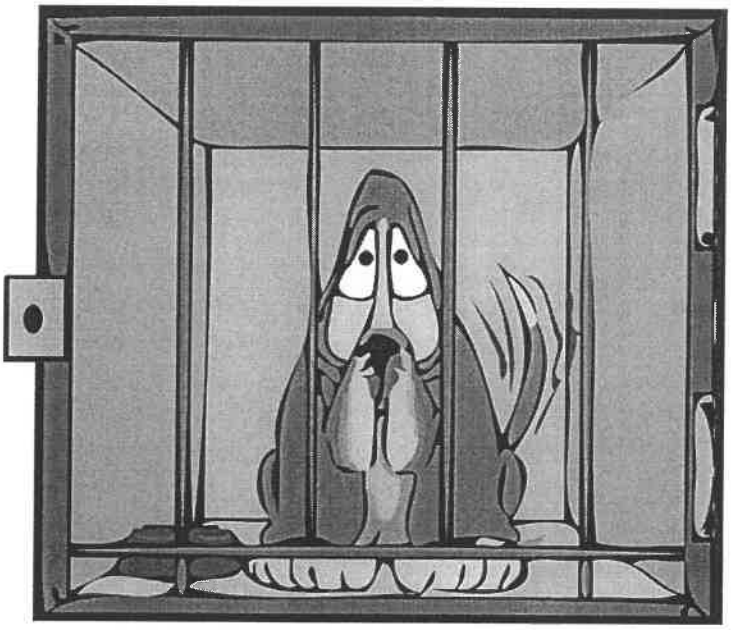
VERMONT LEAGUE OF CITIES AND TOWNS

THE BIG BOOK OF WOOF



Handbook on Vermont Municipal Dog Law

Serving and Strengthening Vermont Local Governments

VERMONT LEAGUE OF CITIES AND TOWNS

THE BIG BOOK OF WOOF



Serving and Strengthening Vermont Local Governments

HANDBOOK ON VERMONT DOG LAW

The **Vermont League of Cities and Towns** (VLCT) was founded in 1967 as a nonprofit, nonpartisan organization dedicated to serving and strengthening Vermont local government. Today, VLCT supports its member municipalities by offering them a comprehensive insurance program, representation before the state and federal governments, and an extensive educational and technical assistance program.

■ ■ ■

Founded in 2003, the **VLCT Municipal Assistance Center** (MAC) provides local officials with legal and technical assistance, consulting services, and educational workshops that increase the ability of local officials to serve their citizens. The Center also publishes handbooks for all major town officers and annual surveys on municipal salaries and benefits and current municipal practices. MAC staff have diverse backgrounds in public administration, municipal law, human resources, public finance, and planning and zoning.

A publication of the VLCT Municipal Assistance Center

Copyright © 2014 by Vermont League of Cities and Towns

Vermont League of Cities & Towns
89 Main Street, Suite 4
Montpelier, VT 05602

802-229-9111/800-649-7915
fax: 802-229-2211
email: info@vlct.org
web: www.vlct.org

THE BIG BOOK OF WOOF

TABLE OF CONTENTS

ABOUT THIS HANDBOOK **3**

INTRODUCTION **4**

CHAPTERS

I. DOG IMMUNIZATION AND LICENSING **5**

IMMUNIZATION 6

LICENSING 7

1. Licensing Fees 7

Where Does It All Go? 8

2. Pet Dealer Permit 9

3. Breeding [or Special] License 9

4. Working Farm Dog License 10

Doggie Tourist License 11

II. ENFORCEMENT **12**

SELF EXECUTING STATE LAW 12

1. Killing Dogs 13

2. Ticketing 16

3. Impoundment 17

4. Vicious Dog Hearing 18

ENABLING STATE LAW 18

1. Ordinances 20

III. THE "VICIOUS" DOG HEARING **23**

1. Bad Dog or Bad Hearing 24

2. The Complaint and Proper Notice 26

3. What to Do with the Dog During the Hearing? 28

4. The Purpose of the Hearing 28

THE HEARING 30

1. Rules of Procedure 31

2. Managing Evidence and Testimony 31

3. Concluding the Hearing, Deliberations and the Written Decision 31

THE PROTECTIVE ORDER 32

1. Reasons Why Dogs Bite 33

2. Dog Talk 33

3. What Should the Protective Order "Order" 34
THE APPEAL 36
FAILURE TO COMPLY WITH THE PROTECTIVE ORDER 36
VOTER ENABLED ORDINANCE 37
IV. ANIMAL CRUELTY 38
V. "ASK SPOT" 39
SERVICE DOGS 39
ABANDONED AND STRAY DOGS 40
POTPOURRI 42

APPENDICES

A. VICIOUS DOG COMPLAINT FORM 46
B. RESPONSE TO VICIOUS DOG COMPLAINT 47
C. NOTICE OF PUBLIC HEARING FOR VICIOUS DOG HEARING 48
D. NOTICE TO OWNER OF VICIOUS DOG HEARING 49
E. VLCT MODEL RULES OF PROCEDURE FOR SELECTBOARD VICIOUS DOG HEARINGS 50
F. VICIOUS DOG HEARING DECISION/PROTECTIVE ORDER 52
G. NOTICE OF STRAY DOG IMPOUNDMENT 55
H. VLCT MODEL DOGS [AND WOLF-HYBRIDS] ORDINANCE 56
I. MUNICIPAL DOG AND WOLF-HYBRID LICENSES AND FEES POSTER 62
J. HELPFUL CONTACT INFORMATION 66

ABOUT THIS HANDBOOK

The Vermont League of Cities and Towns' (VLCT) Municipal Assistance Center (MAC) has prepared this handbook as part of its series of publications to assist both towns' elected and appointed officers. It is not intended to be a substitute for the Vermont Statutes Annotated, but it should prove to be a valuable complement.

Few fields of law demand so much immediate attention, elicit reactionary responses, draw the concern and ire of the public, or are as confusing to enforce as Vermont's dog laws. This handbook provides an in-depth analysis of the various laws governing "man's best friend" and fills in the gaps between the regulatory scheme mandated by the State of Vermont and the broad, largely undefined enabling authority that is the unexplored regulatory landscape in which towns often find themselves.

This handbook is meant to serve as a resource and instruction manual for municipal officials (selectboards, town clerks, animal control officers, town health officers, constables, and the town attorney) involved in dog matters for that which is clear, and a realistic and practical guide to those difficulties that are less so. The appendices includes a model vicious dog complaint form, hearing notices, rules of procedure, a decision template, impoundment notice, a model dog control ordinance, VLCT's Dog and Wolf-Hybrid Licenses and Fees poster, as well as helpful contact information.

We have made reasonable efforts to ensure that the information provided in this publication is accurate; however, the Vermont League of Cities and Towns makes no warranty, express or implied, or representation that such information is suitable for any particular purpose or may be relied upon for any specific act, undertaking or course of conduct. In light of the ever-changing status of both statutory and case law, the Vermont League of Cities and Towns recommends that its members consult with an attorney before undertaking a specific course of action based on the material contained herein.

Finally, please do not hesitate to contact us if you have suggestions for improvements or additional material that you feel should be included in this handbook.

INTRODUCTION

The relationship that *homo sapiens* have with dogs is unlike that it has with any other animal. It is the longest committed relationship with another species and no other animal has done more for us than dogs. They protect us, hunt with us, assist and aid, love us, and have done so longer than any other animal. Even the earliest records of our relationship evidences our closeness. Cave paintings from the Chauvet Cave in the Ardèche region of France show a 164-foot long trail of footprints of what appears to be a wolf-hybrid alongside a ten-year old boy from some 26,000 years ago.[1] The strength of that image alone – a boy and his dog – elicits universally fond memories.

But our history is more complex than that. As we all know, dogs can engender feelings of loyalty, love, family, and devotion as much as they can terror, fear, and anxiety, even in the same person. For those of us who own or have owned dogs, they are part of our family; they're like our children to the point that we forget that as animals they sometimes act instinctually. And, like we forgive children, we're personally forgiving of dogs' transgressions when they're ours as much as we are critical of the same behavior when they belong to someone else. It's this dichotomy in our long and rich history between our personal and public perceptions of dogs that makes regulating their behavior that much more difficult.

[1] *Man's Best Friend,* The Economist (August 6, 2011), http://www.economist.com/node/21525353.

CHAPTER I
DOG IMMUNIZATION AND LICENSING

The following is a fictional conversation between a Vermonter and a VLCT MAC staff person:

Caller: Good morning. I'd like to talk to someone about bringing a civil rights claim against a town.
MAC: And your name, sir?
Caller: Spot.
MAC: And is that your first name or your last name?
Spot: It's both. You know, like Madonna, or Prince ...
MAC: Got it. And what seems to be the problem, Spot?
Spot: I just renewed my license today and discovered that, according to the CDC, there have been three to four times as many rabies cases attributed to cats than dogs, but that cats aren't required to be licensed! Do you know how many reported canine rabies cases there have been in Vermont since 2002?! One! Do you know how many cats have contracted rabies over that same period of time?! Six! So why do I have to get a license and they don't?!
MAC: I'm sorry ... er, are you a dog?
Spot: (barks)
MAC: I'll take that as a "yes." Well, Spot, unfortunately the Equal Protection Clause of the 14th Amendment to the U.S. Constitution does not apply to dogs or, for that matter, to wolf-hybrids. In fact, the U.S. Supreme Court has characterized you ... well, as property – and imperfect property at that.
Spot: Let me get this straight. You're telling me that in the hierarchy of things, I'm on par with a couch?
MAC: No. I'm saying that because of the public health and safety hazards you pose, you're *less* than a couch.
Spot: That's absurd! So that means I have to be licensed, wear a collar, and be tied up in the yard?! Do you know how humiliating it is to be led around on a leash while these cats just go wherever they please, their tails in the air, flaunting their freedom right in front of me? It's not fair! I'm a good boy!
MAC: I'm sure you are, sir.
Spot: (tail wagging) Don't condescend to me! (hangs up).

Though Spot has no case, he does have a point. Why do we license dogs and not cats? What is it about dogs that warrants our draconian dominion over them? What happened in the past that brought us to today's disparate treatment between dogs and cats?

The answer can be found in the circumstances surrounding the proliferation of dog licensing and other dog control measures around the United States. The early 1940s saw approximately 40 cases of the rabies virus annually. Extensive vaccination campaigns launched in the 1940s and 1950s, coupled with licensing programs that ensured vaccinations were performed and kept up to date, led to the virtual elimination of canine borne rabies in the United States. According to the Centers for Disease Control and Prevention (CDC), only 0.3 percent of dogs tested for rabies were found to be positive. Contrast that with 1.1 percent of all cats tested.[2] If you search Title 20,

[2] Centers for Disease Control and Prevention, *Domestic Animal Surveillance*, available at http://www.cdc.gov/rabies/location/usa/surveillance/domestic_animals.html (last visited June 9, 2013).

Chapter 193, of the Vermont Statutes Annotated (this is titled "Domestic Pet or Wolf-Hybrid Control" but it really addresses the licensing, immunization, and control of dogs almost exclusively) the word "rabies" appears 53 times. The establishment of licensing programs in Vermont and around the country in the 1940s and '50s was instrumental in abating the proliferation of rabies by requiring all dogs of a certain age to be licensed and their owners to show proof of current vaccination as a prerequisite to doing so. Though Spot may not like it, our state licensing program of dogs, which is predicated upon the submission of a current vaccinations certificate, has virtually eradicated the existence of canine rabies in Vermont. According to the Vermont Department of Health, *one* dog has tested positive for rabies in the state since 2002. Contrast this with the number of cats, six, that have tested positive over the same period of time.[3] Though state law does require all domestic pets ("any domestic dogs, domestic cats and ferrets ... and other domestic animals that the commissioner shall establish by rule." 20 V.S.A. § 3541(4)) to be inoculated against rabies (20 V.S.A. § 3581a(a)), the primary pet licensing statute (20 V.S.A. § 3581), only applies to the licensing of dogs and wolf-hybrids, and does not mandate the licensing of cats, though towns may do so by ordinance. It is the licensing program that helps ensure proper immunization.

IMMUNIZATION

Before you can get a license for your dog, you must give the town clerk either the dog's original rabies vaccination certificate or a certified copy of it on a form prescribed by the Secretary of Agriculture. This certificate must be issued by a duly licensed veterinarian stating that the dog received its current pre-exposure rabies vaccination with a vaccine approved by the Secretary of the Agency of Agriculture. 20 V.S.A. § 3581. The person licensing his or her dog must also certify that the dog described in the certificate is the one being licensed. Vermont law is clear on fulfilling this prerequisite to licensing. And yet despite the unambiguous nature of the law, I was able to get a license for my dog without showing any of these documents. How, you ask? Well, in addition to stating an owner must have its dog inoculated against rabies by a licensed veterinarian, the law continues on to read "in accordance with section 3581 of this title, if applicable, and with rules adopted by the secretary." 20 V.S.A. § 3581a(a). The Commissioner of the Agency of Agriculture adopted a rule exempting certain dogs with medical conditions or advanced age from being vaccinated, as these conditions would prevent the development of an adequate immunity to rabies.[4] Most vets are aware of this exemption and are happy to provide such a certificate if, in their professional opinion, one is warranted. In these instances, the clerk should issue a license upon receipt of a certificate from a licensed vet stating that the animal's medical condition exempts that animal from vaccination. Whatever appropriate certificate or copy the clerk receives must be kept on file. The license should state somewhere on it that the dog is unvaccinated, exempt, etc., and documented in your records. If a licensed but unvaccinated dog subsequently bites someone, the dog has to be observed and/or quarantined for a mandatory period of ten days to rule out rabies. The Department of Health would work closely with the Town Health Officer in this situation.

---

[3] Vermont Department of Health, *Animals Testing Positive for Rabies in Vermont*; available at http://healthvermont.gov/prevent/rabies/rabies_positive.aspx (last visited June 9, 2013).

[4] Vermont Department of Health, *Rabies Vaccination Exemptions*; available at http://healthvermont.gov/prevent/rabies/rabiescontrolmanual.aspx#rabiesmanual (last visited June 9, 2013).

LICENSING

Vermont's licensing law also serves other important public policy objectives. The license tags issued by clerks allows town officers – and others – to identify dogs and contact their owners if they're found running-at-large or impounded, and to determine if they've had all their shots. The decreased fee for licensing spayed or neutered dogs (it's half the fee of an unneutered dog) serves as a monetary inducement to reduce the dog population and the host of public health and safety issues associated with strays. A mandatory $3.00 per license fee is imposed to help fund the state's spay and neuter program. The legislature codified its findings for its Vermont Spay and Neuter Incentive Program (VSNIP) and fund directly into law. Specifically, the legislature found "the supply of dogs, cats, and wolf-hybrids in Vermont is a major concern. There are insufficient resources in this state to care for or provide homes for these animals. Many of these animals are ultimately euthanized or become victims of accidents, starvation, or disease. Pet owners who have limited economic resources have great difficulty affording the cost of professional spaying and neutering services." 20 V.S.A. § 3814. There is also an optional surcharge of up to $10.00 that may be levied to fund the operations of a local rabies control program if one has been created by a town's selectboard.

1. Licensing Fees

Calculating exactly how much must be paid for the issuance of a license is a multi-faceted analysis involving the timing of the application, the age of the dog, whether it has been spayed or neutered, how many dogs are being licensed, whether any special purpose exists for which the dog(s) are kept, and whether the dog resides in Vermont or is just visiting. We've compiled all of these considerations in an easy to use dog licensing and fee poster, which is in Appendix I. The law provides that all dogs more than six months old must be licensed. Absent a town charter that provides otherwise, and with the exception of the optional license fee of up to $10.00 enacted by a selectboard to support a local rabies control program, dog licensing fees are set in statute (codified) by the Vermont Legislature and should be the same amount in Cabot as they are in Pownal or Winooski.

The basic license fee calculation begins with the base fees. Additional fees depend upon various factors, including the number of dogs being licensed, what the dogs are being licensed for, and which discretionary licenses, if any, the owner wants to pay for. Licenses expire and must be renewed on or before April 1st. Start with a base fee of either $4.00 for a neutered/spayed dog or $8.00 for an unaltered dog. This fee will either increase or decrease depending on when someone becomes its owner or keeper and what time of year the dog is licensed. All owners or keepers of dogs must obtain a license within 30 days of obtaining the animal. Failure to license on or before April 1st results in a 50 percent increase in the basic license fee. That means that what would ordinarily cost $4.00 for licensing a neutered or spayed dog and $8.00 for an unneutered or unsprayed dog would now cost $6.00 and $12.00, respectively, after April 1st.

But let's say you adopt a dog from your local humane society on May 1st. If you license it within 30 days, the basic fee is the same as if you owned the dog and licensed it on or before April 1st: $4.00 for neutered/spayed dogs and $8.00 for unneutered/unspayed dogs. If, however, you obtained the dog on September 19th, you have 30 days to license the dog, so you might as well wait until October 1st, when the license will be provided at a 50 percent discount: $2.00 and $4.00, respectively. This makes sense because it marks the halfway point of the licensing season.

Let's change things up a little and say that you adopted a dog on September 19th, but for whatever reason you waited until December 1st to license the dog, which is well past the 30-day licensing deadline. Even though the 50 percent penalty is tacked on to the basic license fee turning the $4.00/$8.00 fee into $6.00/$12.00 the license is still being obtained after October 1st so it's eligible for the 50 percent discount, resulting in a fee of $3.00/$6.00. As you can see, this can get a little confusing, so be sure to reference the Municipal Dog and Wolf-Hybrid licenses and fees poster in Appendix I.

To this basic license fee we have the mandatory state surcharges: $1.00 for the state rabies control program and $3.00 for its spay and neuter program. The combination of these three fees (along with a local rabies control program fee if enacted) establish the minimum required charge for licensing a dog. This transaction can be represented by the simple equation of BF + RF + SF = MC, where "BF" is the basic license fee, "RF" is the state's rabies control program fee, "SF" is the VSNIP fee, and "MC" stands for the minimum required charge. It is only the basic licensing fee of $4.00/$8.00 that increases for late payment or decreases depending when a dog is obtained and subsequently licensed. According to state law, "(t)he license fee surcharges in this subsection shall not be considered part of the license fee for purposes of calculating a penalty for late payment." 20 V.S.A. § 3581(c)(3).

Where Does It All Go?

Now that you know how much money to charge for the various types of licenses, what do you do with it? This money, accompanied by a sworn statement from the clerk as to the amount, must be turned over to the town treasurer within 60 days from its receipt for deposit into the town accounts. Clerks compensated in whole or in part by fees retain $2.00 from each dog license or permit issued, regardless of type. 20 V.S.A. § 3588. All monies received by the clerk, including the $2.00, are paid over to the town treasurer along with a full reporting of the number, type, and cost of each license issued. Not only is this a necessary internal control to prevent the embezzlement of public monies, but for those clerks whose salary consists of more than just fees, following this process is essential for the proper withholding of federal income taxes. According to the Internal Revenue Service, "Generally, any individual who serves as a public official is an employee of the government for whom he or she serves. Therefore, the government entity is responsible for withholding and paying Federal income tax, social security and Medicare taxes, and issuing Form W-2, Wage and Tax Statement, to a public official." If the clerk is not compensated by fees, then the entirety of the license fee received is paid over to the town.

So what, if anything, does the town get to keep? The $1.00 surcharge for the state's rabies control programs and the $3.00 for the state's spaying and neutering program both go to the state. The $1.00 surcharge must be paid over to the state treasurer before the 15th of May, September, and January of each year with an accounting of the licenses sold. 20 V.S.A. §§ 3581(c)(1), (f). The town clerk gets $2.00 from every license issued (if compensated by fees). 20 V.S.A. § 3588. Everything else, including whatever amount up to $10.00 that the selectboard imposes for the purposes of funding its own local rabies control program, is retained by the town.

2. Pet Dealer Permit

To these base fees we may have to add other licenses. Until the 2013 legislative session, this included a kennel permit. A kennel permit had to be obtained whenever two or more dogs that

were four months old or older were kept for sale or for breeding purposes. A kennel permit was in essence a business permit issued annually by the town. Its purpose was to allow the town to create a record of persons who are in the business of selling or breeding dogs. Unlike other licenses, this permit had to be prominently displayed on the kennel premises. A kennel permit cost $10.00 (depending on when it was obtained), which was an amount that was in addition to the base licensing fee that still had to be obtained for each dog. For example, if someone came into your office on April 1st to license his two unneutered dogs, both of which were two years old and were kept for breeding purposes, the cost would be $34.00. The calculation would have included the $12.00 base licensing fee per a dog ($8.00 + $1.00 + $3.00 × 2) and $10.00 for the kennel permit. In the 2013 session, however, the Vermont Legislature passed Act 30, which amended several statutes (20 V.S.A. §§ 3541, 3541a, 3550, 3681, and 3682) regulating the welfare as well as the sale of dogs, wolf-hybrids, and cats, including kennel permits. The basic premise of the permit remains the same: licensing those keepings dogs for sale or breeding purposes – though the details have changed. A kennel permit will now be called a pet dealer permit; the cost of the permit increases from $10.00 to $25.00 (the town still retains the entirety of the fee); and instead of applying whenever two or more dogs four months old or older are kept for sale or for breeding purposes, it defines a pet dealer as a person who sells or exchanges – or offers to sell or exchange – cats, dogs, or wolf hybrids from three or more litters in any 12-month period. The definition does not apply to pet shops licensed by the Agency of Agriculture, animal shelters, or rescue organizations.

That, however, is where the similarities end. Act 30 obliges a pet dealer to allow inspection of his or her premises as a condition of receiving and retaining the permit. The town clerk must now provide the pet dealer with the Agency of Agriculture's Animal Welfare Standards documents, contact information for the agency's Animal Health Section, and information on a pet dealer's obligation to charge state (and, where applicable, local option) sales tax on pet sales. Inspection of the pet dealer's premises may be conducted by the town animal control officer, any law enforcement officer, or a representative of the Agency of Agriculture. Such inspectors may, with the approval of the selectboard and at the inspector's discretion, be accompanied by a veterinarian or an officer or agent of a humane society that is incorporated in Vermont. The act specifically states that selectboards are under no obligation to conduct inspections. Such an inspection would be scheduled in advance with the pet dealer or his or her agent, with the dealer or agent present during the inspection, and be limited to areas used for animal housing, care, birthing, and storage of food and bedding. The premises may not be photographed or videotaped without written consent. Repeated failure to consent to an inspection may result in a revocation of the permit. If an inspector, during the course of an inspection, believes that a criminal animal welfare violation exists on the pet dealer's premises, nothing shall preclude a criminal investigation into the suspected violation. Results of inspections are to be submitted to and maintained by the town.

3. Breeding [or Special] License

A breeding license – not to be confused with a pet dealer's permit –is entirely voluntary and really serves no other purpose than as an official acknowledgment that one breeds dogs. Whereas a pet dealer permit serves a governmental purpose (to regulate the health and safety of kennel operations), the breeding license serves a private one by allowing a breeder to make reference to an official sanction of his or her operations while saving on licensing fees. As with all licenses, a breeding license must be renewed on or before every April 1st, and proof of a current rabies

vaccination is required for each dog covered by it. Unlike other licenses, however, the breeding license does not apply to neutered dogs (they're particularly difficult to breed), and this license is contingent on the dogs being kept in a proper enclosure. State law defines a "proper enclosure" as "a locked fence or structure of sufficient height and sufficient depth into the ground to prevent the entry of young children and to prevent the animal from escaping. A proper enclosure also provides humane shelter for the animal." 20 V.S.A. § 3583(a),(1).

A breeding license also distinguishes itself because it is the only license whose fee is in place of – not in addition to – the base license. Instead of having to pay the cost of licensing each dog individually, a breeding license covers them all. The cost of a breeding license is $30.00 for the first ten dogs and $3.00 for each additional dog. The state's rabies control program fee of $1.00, however, will still apply, but only to each license sold – not to each dog. 20 V.S.A. § 3581(f). For example, if a breeding license is sought by an owner breeding eight dogs, the cost of the license would be $31.00 – $30.00 for the breeding license and $1.00 for the mandatory state rabies control program fee. The license, however, is particular to the breeder, not to each and every dog. So, if you buy a puppy from a breeder, you will still have to license that dog (once it is six months old) with your town clerk even if you live in the same town as the breeder, because the benefit of group licensure is removed once the transfer of ownership occurs. Contrast that with buying a dog from a non-breeder or even just having someone you know give you a dog for whatever reason. In each of those instances, you will have to license the dog if it is not already licensed. But if it is, all you need to do is to change the name on the existing license. If you live in a different town from the person who gave the dog to you, will need to have that license transferred to your own town. That's because a license from one town clerk will be valid in any other town in Vermont and may be transferred with the dog, provided the license is recorded by the clerk where the dog is being kept. 20 V.S.A. § 3591.

4. Working Farm Dog License

The last of the licenses available for purchase from towns is the working farm dog license. A "working farm dog" is defined as a dog that is "bred or trained to herd or protect livestock or poultry or to protect crops and is used for those purposes and that is registered as a working farm dog pursuant to subsection 3581(a) of this title." 20 V.S.A. § 3541(9). Anyone who owns such a dog and intends to use it on a farm must register it with the town and pay $5.00 for a working farm dog license in addition to all other licensing fees required. The benefit to farmers of this license is that a working farm dog, when registered properly, is exempt from town regulation of barking or running at large when it is on the property of the farmer who registered it, and the dog is being used to herd or protect livestock, poultry, or crops. Without that working farm dog license, a town is free to ticket the owner for the offending dog's behavior, regardless of whether its owner operates a farm. The town clerk must keep a record of all licenses issued, including the name of the dog's owner or keeper, and the name, registered number, and description of the dog. 20 V.S.A. § 3589.

Doggie Tourist License

It's a dog's life, which is why some of them like to vacation in Vermont. And who could blame them? We have rolling open spaces and of course plenty of trees. Before they visit our fair state, our four-legged tourists must remember to bring their tags bearing the identity of their owners and proof of current rabies vaccination covering the period they'll be here. If they're properly tagged, then there is no need to get them a Vermont license, so long as their stay doesn't exceed 90 days. 20 V.S.A. § 3587.

CHAPTER II
ENFORCEMENT

Spot gets a letter in the mail.

Spot's Owner: What's wrong, boy? You look nervous.
Spot: Did you see this letter?!
Owner: The one from the town clerk?
Spot: Yes, that one! It says that if you don't get me a license, I may be "humanely destroyed." Do you know what that means?! (Spot makes a slashing motion across his neck.)
Owner: Oh, they send that every year.
Spot: And you're okay with this?!
Owner: Relax. They never follow through on it. Oh, but just make sure you stay on the property.
Spot: Why? What happens if I leave?
Owner: You could get impounded, and if I don't pay the fine within a certain time, well ... it's just better if you stay on the property.
Spot: You mean they'd put me in the slammer?! I can't do hard time! How much is the license?
Owner: What's today, June 1st? You're neutered so it'd be ten dollars.
Spot: Great, here's a twenty. (Hands him a bill.) Get a license and some Snausages. And don't forget the change!

Regulating and enforcing dog behavior begins, as do all other activities regulated by towns, with the fact that Vermont is a Dillon's Rule state. As such, a town has only those powers and functions specifically authorized by the Vermont General Assembly and such additional functions as may be incident, subordinate, or necessary to the exercise of that authority. *Petition of Ball Mountain Dam Hydroelectric Project*, 154 Vt. 189 (1990). In short, your authority to regulate dogs emanates from the state. This authority can be either self-executing or enabling. A self-executing statute gives immediate authority to act, sometimes in the form of a mandate or directive, without any implementing action; an enabling statute gives the authority to act contingent upon implementing action at the local level, such as the adoption of an ordinance. Even a town governance charter that allows the town to deviate from state laws of general applicability is itself approved by the state. These statutes are replete with "shalls" (things you must do) and "mays" (things you can do if you want). The authority to act with respect to dogs[5] almost exclusively resides in Title 20, Chapter 193, "Domestic Pets or Wolf-Hybrid Control," with the exception of 24 V.S.A. § 2291(10), which provides no more enabling regulatory authority over dogs than Title 20, Chapter 193, does. We'll address the self-executing State laws first to aid in your analysis of whether development of your own dog control ordinance is necessary.

SELF EXECUTING STATE LAW

Vermont law doesn't require you to adopt an ordinance before you regulate dogs and their owners, but it does address most of the more serious issues that you'll come across: licensing and immunization, dogs running at large, and vicious dogs. The law even provides you with a statute to issue a municipal complaint (ticket) for most of these violations (as well as a host of factors to

[5] This is in addition to Vermont's animal cruelty laws: Title 13, Crimes and Criminal Procedure, Chapter 8, Humane and Proper Treatment of Animals.

consider) and a prescribed process for handling their resolution. The problem with these statutes is that they tend to be more involved, complicated, and less attuned to resolving the specific issues with which you may be confronted. They also don't address most nuisance issues (excessive barking, not picking up after your dog) that general enabling law permits you to regulate.

1. Killing Dogs

The expression "it's a dog's life," which dates from the 1600s, was meant to signify a life of misery. If dogs in the 1600s had it anything like Vermont dogs at the turn of the 20th Century, then that saying really rang true. One of the laws on the books back then required – as it does today – that the owner or keeper of a dog must cause it to be licensed and collared and that the name of its owner be indicated. The law, however, validated Spot's apprehension because it also stated that "any person may, and every, police officer and constable shall, kill or cause to be killed" dogs without a license or collar "whenever or wherever found." P. S. 5635. The motive for killing these dogs was immaterial. If they were off the owner's property and didn't have a collar or license, they were free game. Fortunately for Spot, the law has evolved since then.

Even if you haven't adopted an ordinance, state law authorizes the killing of dogs in discrete circumstances. No notice is needed, no hearing is necessary. These are laws that allow you – as the government or private citizen – to summarily kill dogs because of the threat they pose to individuals or the public. As you will notice throughout this handbook the law prescribes different notice or in certain circumstances no notice. Though the 14th Amendment to the United States Constitution states that no person can be deprived of property without due process of law the United States Supreme Court has ruled that in determining what process is due consideration must be given to the nature of the property.[6] "So far as property is inoffensive or harmless, it can only be condemned or destroyed by legal proceedings, with due notice to the owner; but so far as it is dangerous to the safety or health of the community, due process of law may authorize its summary destruction."[7]

"Killing dogs" is a morbid title for a subchapter on Vermont dog law, but Title 20 Chapter 193 uses the word "kill" in various tenses 19 times, thereby warranting a closer examination of who can do it, when it can be done, and what if any process must precede this act. The more sensitive sounding, but no less temporal phrases, "humanely destroy" and "dispose of in a humane way" are also used. The titles of the subchapters alone where these words appear reveal some of those offenses for which this ultimate of penalties may be imposed, including the killing or "worrying" of sheep and the attacking of a person or a domestic animal. These titles also indicate that some sort of bounty or fee may be claimed or assessed for the killing to be done. Only roughly half of these statutes actually involve towns in some form. The rest are laws of general applicability,

---

[6] " (W)e noted that 'due process concerns arise whenever the state deprives an individual of an interest in the use of real or personal property.' The process that must be afforded, however, varies depending upon the context…we have applied the factors set forth by the United States Supreme Court in Mathews v. Eldridge, 424 U.S. 319, 335, 96 S.Ct. 893, 47 L.Ed.2d 18 (10\976). These are: (1) the private interest affected by the state action; (2) the risk of erroneous deprivation of the affected private interest affected by the state action; (2) the risk of erroneous deprivation of the affected private interest under the procedures used; and (3) the governmental interest involved, including fiscal and administrative burdens." Lamare v. North County Animal League, 170 Vt. 115 at 121, 122 (1999).

[7] Sentell v. New Orleans & C. R. Co., 166 U.S. 698 at 705 (1897).

meaning that they are not peculiar to towns or their officers, but govern the behavior of society as a whole. Those laws specific to towns enable them to order a dog be put down as a result of a vicious dog hearing [20 V.S.A. § 3546(c)]; offer a bounty to kill a dog caught in the act of killing or worrying sheep [20 V.S.A. § 3749]; or play the role of a 15th century British monarch by chopping off its head and sending it to the Vermont Department of Health if it is rabid [20 V.S.A. § 3806]. Each of these statutes and the role towns play in executing them (no pun intended) are described below.

20 V.S.A. § 3545. Right to kill domestic pets or wolf-hybrids generally

This law could be renamed the "dog self defense" law. If a dog is attacking you or someone else, you may kill it so long as the dog at the time isn't restrained, within an enclosure, or on the owner's property. So, if you find yourself being attacked by a dog on its owner's property, you may take whatever action necessary to subdue the animal short of killing it, unless you're able to cross the owner's property line with the dog attached to your leg. This protection also extends to dogs wounding, killing, or worrying another domestic pet or animal "when the attendant circumstances are such that the killing is reasonably necessary to prevent injury to the animal or fowl." A note of caution: a section of the applicable language reads "[a] person may kill a domestic pet or wolf-hybrid that suddenly assaults him or her or when necessary to discontinue an attack upon the person or another person provided that the attack or assault does not occur while the domestic pet or wolf-hybrid is restrained, within an enclosure containing the domestic pet or wolf-hybrid, or on the premises of the owner." This statute shouldn't be misconstrued to adopt a "five cent solution" to kill any dog that an animal control or local law enforcement officer finds nipping at his or her heels. Unless the dog is exhibiting signs of rabid behaviour (see 20 V.S.A. § 3809 below), the town can pretty much count on the owner of a dog the size of a cat suing the town for killing their dog. Ergo, use your best judgment. If bodily harm is an issue, the law authorizes you to protect yourself.

20 V.S.A. § 3809. Killing a domestic pet or wolf-hybrid which attacks a person or domestic animal.

This law affords the same protections from liability as 20 V.S.A. § 3545, but without the restrictions, by declaring open season on any dog suspected of having rabies that attacks a person or a domestic pet or animal. There is no restriction upon killing the dog such as with section 3624. The act isn't predicated upon where the attack occurs, or if the dog is restrained or within an enclosure. Additionally, "[a] person so killing such domestic pet or wolf-hybrid shall not be held liable for damages for such killing." In other words, there is no need to exercise any judgment prior to killing the dog so long as the dog is suspected of being rabid.

20 V.S.A. § 3624. Who may destroy; fees.

The law mandates that a police officer or constable "shall humanely destroy or cause to be destroyed dogs or wolf-hybrids whenever a warrant has been issued authorizing such actions." The form of the warrant is found in 24 V.S.A. § 3622 and is issued by the selectboard. This is a self-executing provision of state law, which means that, unlike an ordinance that requires selectboard action subject to a voter-backed petition, a selectboard may just act upon the express authorization of the statute. On first read, this law, in isolation, appears to lack important details, such as who issues the warrant, when a warrant may be issued, and under what circumstances. The answers to these questions can be found in Article 2 of Subchapter 1. This article addresses the killing of unlicensed dogs. From the title alone we know that a warrant can't simply be issued to destroy any dog. This law targets a specific type of dog: the unlicensed. The article

answers our other questions: who issues the warrant? (the selectboard), and when may the warrant issued? (at any time). Still, the law's reach is narrower than it first appears. Vacationing dogs (i.e., those brought into Vermont for "a period not exceeding 90 days ...") are exempt. And the law pertains only to those "dogs or wolf-hybrids within the town or city not licensed according to the provisions of this subchapter ..." The referenced subchapter is Subchapter 2 of Chapter 193 of Title 20, which contains two articles. Article 1 sets forth when dogs must be licensed and the different types of licenses available; Article 2 is discussed above. Article 1 requires all dogs to be licensed on or before April 1st of every year. Failure to do so, therefore, would be a necessary precondition to a selectboard issuing a warrant for killing the dog. Article 1, however, also imposes some duties upon towns in carrying out the legislature's dog licensing program. For example, town clerks must issue license tags (20 V.S.A. § 3581) and keep a record of licenses issued, along with the names of the owners or keepers, and the names, registered numbers, and descriptions of the dogs. 20 V.S.A. § 3589.

At any time thereafter, the selectboard may issue a warrant to one or more law enforcement officers or duly designated animal control officers directing them to impound ***all dogs*** not licensed according to state law and to enter a complaint against their owners. The form of that warrant is mandated by state law and can be found in 20 V.S.A. § 3622. The warrant need not be issued for each and every unlicensed dog because it encompasses all unlicensed dogs. This represents the direct or proactive approach to enforcing against unlicensed dogs. The reactive or indirect approach would be to condition the release of dogs impounded for violating your ordinance upon proper licensing. Though 20 V.S.A. § 3624 and language in the warrant found in 20 V.S.A. § 3622 say differently, a police officer or constable can't simply "destroy or cause to be destroyed dogs or wolf-hybrids whenever a warrant has been issued ..." The legislature in 2009 enacted changes that direct that a town must first attempt to find suitable homes for these animals before impounding them. Only if they cannot be placed in an adoptive home or transferred to a humane society within ten days may they then be humanely destroyed. "The municipality shall not be liable for expenses associated with keeping the dog or wolf-hybrid at the animal shelter or rescue organization beyond the established number of days." 20 V.S.A. § 3621(a). The town may waive the license fee for an unlicensed dog that is impounded for this reason upon a showing of a current vaccination or financial hardship on the part of the owner.

20 V.S.A. § 3749. Bounty on dog killing or worrying sheep.

In your local post office you'll find pictures of the country's most wanted criminals. Vermont has its own version of this notice, but it involves the selectboard placing a bounty on the head of any dog caught in the act of killing or worrying sheep. The bounty is set by statute at $5.00 per tail. In 1919, when the law was originally enacted, this bounty was the equivalent of $66.67, a pretty penny reflecting the relative importance that sheep played in Vermont's economy at the time.

20 V.S.A. § 3807. Killing a domestic pet or wolf-hybrid.

The overriding public health concern underpinning much of Vermont's dog law is the spread of rabies. To try to limit exposure to the disease, the state bestowed broad police powers authorizing selectboards, any officer it designated, and certain state commissioners to order the killing of any dog that has been exposed to rabies, attacked by a rabid animal, or is running at large and is suspected of having rabies. This section of law is the enforcement arm of another statute: 20 V.S.A. § 3806. If a dog is not impounded for the reasons noted in 20 V.S.A. § 3806 (see below), then there is no action to be taken under 20 V.S.A. § 3807. This law directs that

"(i)n the event that a domestic pet is suspected of exposing a human, pet, wolf-hybrid, or domestic animal to rabies, it shall be managed in accordance with the provisions of this subchapter and the rules of the department of health." Those rules can be found in the Vermont Department of Health's Town Health Officers Manual. Since there exists no pre-exposure rabies vaccine for a wolf-hybrid, the rules for dealing with that animal are different: the animal is immediately destroyed and its head is sent to the Vermont Department of Health for analysis. If, however, a dog impounded under 20 V.S.A. § 3806 is not suspected of having been exposed to rabies, it may be released to its owner. If the dog's owner can't be found or it is impractical to confine or impound the dog, then it too may be humanely destroyed.

2. Ticketing

Title 20 V.S.A. § 3550. Enforcement; municipal legislative body; commissioner.

If your town does not have a dog/animal control ordinance, you need to familiarize yourself with 20 V.S.A. § 3550. This is the statute that allows you to enforce against violations of state law. The law is somewhat cumbersome and will not address all of your problems, so read it carefully before you rely on its provisions. Specifically, this law allows you to impose penalties for violation of "any provisions of Subchapters 1 or 2, refusal to obtain a pet breeder's license under Subchapter 3, or refusal to comply with an order issued by a municipal officer under Subchapter 5 of this chapter." 20 V.S.A. § 3550(a). This means that even if you don't have an ordinance, you can still enforce against violations for failure to license or immunize, refusal to obtain a pet breeder's license, failure to comply with certain town orders, and ordinance violations.

Under this law, before an animal control officer or other designee of the selectboard can issue a ticket, he or she or the selectboard must weigh eight factors to determine what civil penalty or fine to assess. This potentially gives the respondent eight different reasons to appeal the selectboard's fine. This isn't a one-time determination. The animal control officer or selectboard would have to make it each time a state law was violated. The factors are:

(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 costs of enforcement.
(8) The length of time the violation has existed.

The limits of the civil penalty to be imposed is $500, which is $300 less than what the town could charge if it adopts its own standalone dog control ordinance. That's not all. After the selectboard (or its designee) arrives at this figure, it has to issue a notice of alleged violation to the owner either in person or by registered mail. The notice must include:

- the amount of the penalty;
- a description of the alleged violation and the law alleged to have been violated;
- a statement that the violator has a right to a hearing before the selectboard or its designee;
- a description of how to request such a hearing;

- a statement that failure to request a hearing within 21 days of the date of the mailing of the notice will result in a final decision without a right to appeal, as well as any applicable directive to achieve compliance with the law (e.g., licensing, immunization, etc.).

Do you think your town will be able to administer this kind of enforcement program? Well, hold on. There's more.

The next step is to hold a hearing if the alleged violator makes a request for one to the town clerk no later than 21 days after the date of the mailing of the notice of violation. This hearing must be held within 14 days of receipt of the request. If no request is made, the decision will be final and the penalty assessed must be paid within 35 days following mailing of the notice of violation. If a hearing is held, the selectboard may "affirm, reduce or eliminate the penalty" and deliver its decision by certified mail to the alleged violator. If the violator fails to pay the fine, the selectboard can bring a collection action in either smalls claims court or superior court. Of course, the alleged violator has his or her appeal rights, too – 30 days of receipt of the selectboard's decision. Still willing to rely on the state's self-executing enforcement mechanism rather than adopting an ordinance of your own?

3. Impoundment

20 V.S.A. § 3806. Confining or impounding a domestic pet or wolf-hybrid.

State law also confers upon particular state and local officials[8] the authority to confine or impound dogs when they:

1. are suspected of having been exposed to rabies;
2. have been attacked by another animal that may be rabid;
3. have been attacked by a wild animal;
4. have been running at large; and
5. have an unknown vaccination history.

Towns may, therefore, rely upon this provision of state law to impound dogs found running at large without first adopting an ordinance. The benefit of having an ordinance in place is highlighted by the interplay between this statute and its enforcement counterpart, 20 V.S.A. § 3807, which directs what towns may do with these dogs. When a dog is impounded pursuant to 20 V.S.A. § 3806, its owner must be notified within 24 hours either in person, or by a phone call or written notification to the owner's last known address. If the owner isn't known, the town must provide some posting in the town clerk's office and wherever else public notice is typically made for a one-week period. The statute is silent as to the content of the notice. We recommend including in the notice any information that may help alert the owner, such as describing the breed, sex, apparent age, temperament, observed tendencies, any significant identifying marks, and when, where, and under what circumstances it was impounded.

Title 20 Section 3807, however, is only concerned with the spread of rabies, not whether it is licensed or even inoculated as evidenced by the fact that when it's not reasonable to consider the

[8] "[a]ny person authorized to enforce state livestock disease control, health, wildlife, or criminal laws and any person authorized to enforce local ordinances ..."]

dog rabid it's simply returned to its owner. "(I)f the official finds that it is not reasonable to suspect that a domestic pet or wolf-hybrid impounded under Section 3806 of this title is rabid or has been exposed to rabies, the official may deliver the domestic pet or wolf-hybrid to the owner." The benefit of an ordinance is that a town may include language setting forth the conditions that must be met for the release of any impounded dogs. For example, an ordinance could require owners to license and inoculate their dogs and pay any penalties and impoundment expenses incurred by the town before their dogs will be released.

But even this approach has its limitations as it is reactive-addressing the issues of licensing and inoculation on a piecemeal basis once a dog has been impounded. Conducting the state mandated "dog census" (discussed below) empowers towns to go after each and every four-legged scofflaw; a licensing and inoculation sting operation if you will.

4. Vicious Dog Hearing

20 V.S.A. § 3546. Investigation of vicious domestic pets or wolf-hybrids; order.
Much confusion is associated with this statute, and, because it is one of the most relied upon and controversial in your regulatory arsenal for dealing with dogs, we've dedicated all of Chapter 3 to it.

ENABLING STATE LAW

These are the laws that encompass the "mays" – those provisions of state law that enable or empower you to act if you so choose and those broad grants that authorize you to draft your own laws, within certain limits. Given the lack of clarity of the state's domestic pet or wolf-hybrid control laws compounded by the realization that they were not intended to solve every town's problems, but were meant to be applicable statewide, most towns will need to supplement the statutes to address their specific needs.

20 V.S.A. § 3621. Issuance of warrant to impound; complaint.
This law permits selectboards to issue a warrant to police officers, constables, pound keepers, or animal control officers directing them to impound all dogs "not licensed according to the provisions of this subchapter [subchapter 2]," with the exception of those dogs visiting from out of state for no more than 90 days. The warrant must be in the form mandated by 20 V.S.A. § 3622. It should be noted that this "warrant" is not like a search warrant issued by a court of law. Rather it is a legislative commandment compelling the impoundment of all unlicensed dogs which must be returned, along with the names of the owners or keepers of such dogs, to the selectboard within 90 days from the date of issuance. The officer who carries out the commands of the warrant is entitled to compensation for each dog destroyed, provided he or she is not regularly employed by the town. The selectboard must also reimburse this officer for any costs incurred carrying out his or her duties. 20 V.S.A. § 3624. The power of a warrant issued by the selectboard is clarified in 20 V.S.A. § 3551, which states "[a]n officer who has attempted to seize a domestic pet or wolf-hybrid under sections 3546, 3549, 3624, 3745, 3806, or 3807 of this chapter and has not been permitted to search for or take the animal, may apply to a judicial officer authorized to issue search warrants for a warrant to search the properties of the owner of the animal or any other property if the officer has reasonable cause to believe that the animal may be on it." So unless the owner voluntarily surrenders his or her dog, the impounding officer

will need to apply to superior court for a search warrant that permits the taking of the animal. This process will invariably involve the town's attorney.

Even if all these steps are taken, an unlicensed dog's life is still not in jeopardy. First, some dog owners may have found themselves in this position due to economic hardship. In that instance, the initial notice should inform the dog owner that the selectboard may waive the license fee upon a showing of current vaccination history and financial hardship. If waived the state would not receive its portion of the fee. Second, if no waiver is requested and granted, an unlicensed dog is still entitled to a 10-day stay of execution (or some longer period of time established by the town) while the selectboard attempts to find it a more responsible owner by placing it with an animal shelter or rescue organization. The town will be on the hook for the period of time the dog is kept at the shelter, but "shall not be liable for expenses associated with keeping the dog or wolf-hybrid at the animal shelter or rescue organization beyond the established number of days." 20 V.S.A. § 3621(a). What constitutes the "established number of days"? Presumably, this is a matter of agreement between the selectboard and the animal shelter, because the state doesn't define this timeframe. If the dog remains unlicensed and can't be placed in an adoptive home, humane society, or rescue organization, then the selectboard may have it humanely destroyed.

As you can see, this process is much more complicated and involved than simply issuing a warrant to a police officer or constable that directs them to humanely destroy all unlicensed dogs. One additional complication is that even though the law permits a selectboard to issue a warrant to impound all dogs within the town "at any time," it also presumes that the town annually conducts a dog census (see below). Failure to adhere to this statutory directive could open the door for the owner of an unlicensed dog to challenge the legal basis of the impoundment. Regardless of whether a town conducts the dog census, a reminder letter informing the owner of his or her dog's possible impoundment and destruction absent remedial action should be sent before the warrant is issued.

20 V.S.A. § 3590. List of dogs and wolf-hybrids not licensed, i.e. "The Dog Census."
Though this section is mandated by the State (each town's selectboard must "annually designate one or more persons to maintain a list of unlicensed, inoculated and licensed dogs and wolf-hybrids owned or kept in their municipality and to submit the list to the municipal clerk") it is included here because of the discretionary authority of the selectboard to issue a warrant when it is completed. Upon receipt of this list, commonly referred to as the annual dog census, the clerk must notify all owners or keepers of dogs on the list of the need to license or inoculate their dogs, and that failure to do so may result in their dogs being humanely destroyed. Posting reminders of the need to license and inoculate dogs wherever public notices are typically located will help reach those who may escape the reach of the census. Once the list is updated, the clerk must forward it to the selectboard by May 30th of each year. 20 V.S.A. § 3590.

Twenty V.S.A. § 3590 is one of those statutes that contains a lot of "shalls". In other words, the census is mandatory, not discretionary. The purpose of the census is to establish a starting point for licensing and/or inoculating a dog – or their adoption or humane destruction. One of the difficulties of conducting the dog census stems from the fact that the law provides no guidance to how the census is conducted. Another problem is that in order to "maintain a list of unlicensed, inoculated and licensed dogs and wolf-hybrids," you need to know who has a dog in the first place. Conducting a census brings to mind the image of numerous people canvassing a neighborhood by asking residents how many dogs are in each household. That's certainly one

way to come up with your master list. But unless you have an army of volunteers at your disposal, you may find that this may not be the most cost-effective way to comply with the law. VLCT's own Municipal Census does not ask how many towns conduct the dog census, so we have no data to support our suspicion that most of you are simply sending out a reminder to all those licensed the previous year to license and/or inoculate their dogs. But that's fine, since that's all the law requires of you.

Another way to keep down administrative costs is to communicate with dog owners via email. All the law says is that you have to "notify" them; it doesn't say "how" you notify them. As for the scofflaws that you don't know about, indirect enforcement probably is your most cost-effective solution. Indirect enforcement means complementing your dog census efforts with a reactive licensing/inoculation approach, which you can do by having a provision in your dog control ordinance stating that an impounded dog will not be released to its owner until it is first licensed and inoculated. A person who doesn't license his or her dog probably doesn't let it run at large and otherwise avoids running afoul of your town's ordinance to avoid the possibility of impoundment. In that case, then the purpose of the dog census is served despite the dog owner's small show of civil disobedience. Just because a dog isn't licensed doesn't mean that it hasn't been inoculated. Remember, if a dog bites a person on the owner's property, it is still subject to a private civil action (though most issues are resolved by an owner's insurance company). But if it is never free of its owner's control, the animal will have a more difficult time spreading rabies which is ultimately the objective of the law.

1. Ordinances

An ordinance is "an expression of the municipal will, affecting the conduct of the inhabitants generally, or of a number of them under some general designation." *City of Barre v. Perry & Schribner*, 82 Vt. 301 (1909). Because an ordinance authorizes the use of the town's police powers to protect the public, health, safety, and welfare, its focus is exclusively public, not private. This state grant of power must be carefully wielded within the constitutional parameters set forth by federal and state governments lest it be deemed invalid. Moreover, "[n]o municipal ordinance can go beyond, be broader than, add to, subtract from, modify or affect, limit, amend or change statutes, at least where the net result is one of conflict nor may an ordinance prohibit that which state law specifically permits."[9] Please refer to VLCT's handbook, "Ordinance Enforcement in the Judicial Bureau," for additional guidance on proper drafting, enactment, and enforcement of municipal ordinances.

Besides a municipal governance charter, which itself constitutes a grant of legislative authority, the source of local legislative authority to compel or prevent action via an ordinance is state law. With respect to enacting ordinances regulating dogs, this authority resides in four places:

1. 24 V.S.A. § 2291(21), the civil counterpart to the state's criminal law relating to the humane care and proper treatment of animals;
2. 24 V.S.A. § 2291(10), which confers upon towns the authority to "regulate the keeping of dogs, and to provide for their leashing, muzzling, restraint, impoundment, and destruction";
3. 20 V.S.A. § 3549, essentially a restatement of 24 V.S.A. § 2291(10);

[9] McQuillin, Municipal Corporations (3rd ed. rev. 2004) § 15:20, pp. 193-194.

4. 24 V.S.A. § 2291(14), which permits towns to "define what constitutes a public nuisance, and to provide procedures and take action for its abatement or removal as the public health, safety, or welfare may require."

These grants of authority enable the reach of your ordinance. For example, your ability to prohibit dogs running at large emanates from the grant of authority the state provides you for the "leashing" of dogs. Others are less obvious, such as requiring a person in control of a dog to remove the animal's fecal material from public or private property and dispose of it in a sanitary manner. Your ability to enact such a provision originates from your authority to define a public nuisance and compel action to redress it.[10]

Abraham Lincoln famously said that "law without enforcement is just good advice." As with all other enabling regulatory authority, ordinances need to correlate to either 24 V.S.A. §§ 1974 (civil) or 1974(a) (criminal) to import violations from the state's statutory framework. You can cite either provision when designating your ordinance as civil or criminal, but not both. [11] And the route you choose instructs what punishment may be imposed and which court of law will have jurisdiction over the alleged violation. The penalty for civil ordinances is monetary, is capped at $800, and is brought before the Vermont Judicial Bureau. The Judicial Bureau can also order that a violation stop, but it otherwise cannot grant injunctive relief.[12] If a town seeks to command an action –e.g., that an owner have his or her dog neutered – or if it wanted to impose a monetary penalty for continuing violations in excess of $800, the town would need to work with the town attorney to initiate an enforcement action in the Criminal Division of the superior court.[13] The shortcomings inherent in the Judicial Bureau's lack of jurisdictional authority to order injunctive relief can be made up for in part through a town's authority to provide for the "impoundment" of dogs. 24 V.S.A. § 2291(10). In other words, because towns can impound a dog for a particular offense, it can set the terms and conditions that must be satisfied before that dog is released. (VLCT's Model Dog Control Ordinance is in Appendix H.) Most towns elect to go with a civil rather than criminal dog ordinance due to the ease of the civil enforcement process – especially now that failure to pay Judicial Bureau penalties can result in referral to collection agencies – and the type and frequency of the regulatory problems involving dogs. But a criminal designation is still an option. If a town is having a particularly hard time bringing about compliance with the ordinance it enacts (as evidenced by a high recidivism/repeat offender rate or a high volume of violations in general), it may want to make certain violations of its dog ordinance criminal. Attaching criminal liability to serious offenses or repeat offenders by designating violations of your ordinance as criminal misdemeanors may impress upon offenders the seriousness of the violations and the need to take remedial action. The threat of a prison sentence (not to exceed one year) is often more persuasive than a monetary fine alone. 24 V.S.A. § 1974(a). Even those who typically don't take their ownership responsibilities seriously won't

---

[10] "[T]o be considered a public nuisance, an activity must disrupt the comfort and convenience of the general public by affecting some general interest[.]" *Napro Development Corporation v. Town of Berlin*, 135 Vt. 353, 376 A.2d 342.

[11] "A municipality may adopt, amend, repeal and enforce ordinances or rules for any purposes authorized by law. ... An ordinance or rule adopted or amended by a municipality under this chapter or under its municipal charter authority shall be designated as either criminal or civil, but not both." 24 V.S.A. §§ 1971(a),(b).

[12] "A court order commanding or preventing an action." Black's Law Dictionary (8th ed. 2004).

[13] "If the penalty for all continuing civil ordinance violations is greater than $800.00, or injunctive relief, other than as provided in subsection (c) of this section, is sought, the action shall be brought in the criminal division of the superior court." 24 V.S.A. § 1974a(b).

want to face the spectre of doing time, a suspended sentence, and/or a criminal record for the acts of their dogs. In contrast to civil ordinances, criminal ordinances may provide for a fine of not more than $500 or imprisonment of less than a year; violations are enforced in the Criminal Division of the superior court.

CHAPTER III
THE "VICIOUS" DOG HEARING

Spot takes the witness chair

Prosecutor: State your name for the record, please.
Spot: Spot.
Prosecutor: And Mr. Spot, where were you on the afternoon of March 1, 2013 at 2:00 pm?
Spot: I was on my owner's premises at 25 School Street, minding my own business.
Prosecutor: Minding your own business, you say? Interesting. (Waves a photograph of a mailman's face with a bite mark on it in front of Spot) And does this look like the injury that would occur to someone from a dog just minding his own business?!.
Spot: (agitated) It wasn't me, you see! Alright, it *was* me, I did it, I bit the mailman. But I didn't mean to. I couldn't control myself!
Prosecutor: What do you mean, you couldn't control yourself?
Spot: The mailman called me over. Everything was going great. He's a nice guy. We've never had problems before. He started out patting my head and scratching behind my ear. And then he tried to take my ball out of my mouth. I gave him a growl to let him know that I didn't like that, but he kept on trying. Well, when he finally yanked it away from me, I gave him a nip on his muzzle to let him know that I was getting frustrated.
Prosecutor: On his muzzle?
Spot: Yes, on his face. That's how we dogs tell each other to back off. I didn't mean to hurt him. His face is much more sensitive than a dog's. I'm innocent! (whimpering) I swear it!

"Mens Rea." It's a Latin term meaning "guilty mind." The prosecution must prove that a defendant had this state of mind (criminal intent or recklessness) when committing a crime to secure a conviction. Mens rea is only one component of a crime – you can't have mens rea without actus rea, or the criminal act itself. In order to establish criminal liability, our system of justice requires that one committed a criminal act (the physical component of the crime) and did so with a criminal mind. But does the same hold true for dog bite cases? When a dog bites someone off of its owner's premises, is it enough that the selectboard establish that the act was committed, or must it also prove that the dog had a "criminal mind?" If so, how does one prove beyond a reasonable doubt that a dog that bit someone had the requisite mens rea to deem it vicious? Doesn't the vicious act prove a vicious mind? A selectboard can't very well put a dog on the stand and subject it to cross-examination, can it? You may be surprised to learn that at one time, this was the process. . In fact it was quite common to afford animals the legal protections of due process and a trial that we've established for human criminal defendants. Western jurisprudence has a long and rich history of treating four-legged transgressors (including pigs, cows, bulls, horses, oxen, goats, sheep, and dogs) of the law as criminal defendants. Secular tribunals to prosecute animals for attacking people or causing a public nuisance or even a person's death were held as far back as Ancient Greece and until as recently as the 1920s when a chimpanzee, arrested for smoking a cigarette in public, was put on trial, found guilty, and ordered to pay a five-dollar fine. Attributing moral agency to animals extended to their demeanor as their grunting or squealing while in the courtroom was interpreted as purposefully disrespectful and held against them in sentencing. This is really not much different from what we

do today in having veterinarians examine dogs to determine whether they have an abnormally aggressive or "vicious" character. [14]

Although in Vermont we still hold public hearings to judge dogs for their actions, they differ drastically from hearings of earlier times in that the rights afforded are unique to their owners and not the offending animal. It is the owner who is the party to the proceeding, who has a right to be represented by counsel, who has the right to appeal, and who must comply with the protective order cast down by the selectboard. This view is consistent with how Vermont and other jurisdictions have traditionally viewed dogs, which is as a form of personal property.[15] As property, it is not the dog but the dog's owner who is given notice of the hearing and an opportunity to be heard.

Returning to our current system of canine justice, some of the confusion as to what we are trying to ascertain, the occurrence of a vicious act, or the vicious nature of the dog comes from the title of the statute itself: "Investigation of vicious domestic pets or wolf-hybrids; order." This title implies that an order can only be rendered upon a finding that a domestic pet (the definition of which includes dogs) or wolf-hybrid is "vicious." On the other hand, all that the statute sets forth as a prerequisite to making such order is to find that the dog bit the victim without provocation. In reality, the statute doesn't even give selectboards the option of not making such an order, as it mandates that selectboards "shall" make such order for the protection of persons as the facts may require. But let's set Spot's fate aside for the moment and provide some instructions about what the law is clear about.

1. Bad Dog or Bad Owner?

As far as the laws governing towns are concerned, not all dog bites are created equal. Depending on where they occur and if accompanied by a request from the victim, dog bites can trigger a statutory obligation on behalf of a town to conduct an investigation and a vicious dog hearing within a fairly narrow timeframe. Other dog bites only call into service an officer of the state who works at the local level: the town health officer. The public policy rationale behind this

---

[14] Up until the 18th century, the practice of prosecuting animals was widespread across Europe. By all accounts, these animals were treated like people in the eyes of the law. "(C)ourts took these proceedings very seriously and strictly adhered to the legal customs and formal procedural rules that had been established for human criminal defendants. The community, at its own expense, provided the accused animals with defense counsel, and these lawyers raised complex legal arguments on behalf of the animal defendants. In criminal trials, animal defendants were sometimes detained in jail alongside human prisoners. Evidence was weighed and judgment decreed as though the defendant were human." Like people, animals were seen as capable of exercising the free will to make choices and hence could act with criminal intent. Take the trial of a sow and her six piglets in 1457 Savigny-sur-Etang, France for the murder of a five-year-old boy. The sow was found guilty but the piglets were acquitted due in part to the poor example set by their mother but also because of their immaturity, which left them poorly positioned to be able to make appropriate choices. Animals were incorporated into our human system of justice to the point of being appointed defense attorneys, given public hearings, incarcerated at the same cost as people, given appeal rights, and provided notice of their hearings. Bartholomew Chassenée, who was appointed legal counsel for the rats of Autun, which were accused of destroying the province's barley crop, successfully argued that his clients were not issued a proper summons to appear in court because they all lived in different locations. Jen Girgen, "*The Historical and Contemporary Prosecution and Punishment of Animals*", 9 Animal L. 97 (2003).

[15] "In holding with the traditional view that the law recognizes animals as a type of property, we are not blind to the special place they hold in our lives. Indeed, pets occupy a legal realm somewhere between chattel and children." *Scheele v. Dustin*, 210 Vt. 45 at 17 (2010).

disparate treatment of man's best friend is the public health hazard posed by a dog that bites someone *on* its owner's premises and one that bites someone *off* of its owner's premises.

The law recognizes that towns can't do it all. As a society we've made the judgment that the responsibility for protecting (and, hence, the risk for failing to do so) the different classes of visitors to our properties (trespassers, invitees, and business guests) best lies with the person most able to safeguard their safety – the dog's owner. Just because a town has no obligation to act when a dog bites someone on its owner's premises doesn't mean that the law doesn't provide recourse in the form of a private civil action. This would explain why over one-third of all home insurance liability claims paid out in the United States in 2012 pertained to dog bites. This $489 million covered medical costs, jury awards, judgments, and settlements.[16] These statistics are used to highlight that not all matters warrant a town's attention. Despite how vociferously one of your constituents may plead or protest, towns can't solve everybody's problems. Sometimes these types of issues are simply disputes between private parties that can only be resolved by the parties themselves, their attorneys, insurance agencies or the courts. Where towns come in is when there is a threat to the public's health, safety or welfare. That's not to say that there may not be a public health hazard merely because of where a dog bite occurred.

In all dog bite cases, there is a role for the town health officer, reflecting the state's primary concern about the spread of rabies. A state officer that serves at the local level, the town health officer is provided very specific instructions from the Vermont Department of Health's regulations with regard to handling all dog bites. These regulations are found in the Vermont Town Health Officer Manual (available at http://healthvermont.gov/local/tho/documents/TownHealthOfficerManual.pdf).
In relevant part, it directs that the town health officer:

1. contact the victim and the owner of the dog to investigate the incident;
2. complete the Animal Bite Report Form (included in the Town Health Officer Manual);
3. determine the dog's rabies vaccination status; and
4. require that the dog be confined and observed for 10 days to determine whether it is healthy.

When a town health officer receives a report of a dog bite, he or she must complete a dog bite form and file it with the town clerk. While it might appear unnecessary to confine and observe a dog that has proof of current rabies vaccination, the Vermont Department of Health isn't willing to risk your health and still requires it as a precautionary measure. According to the department's website on rabies facts, "Dogs or cats that have been vaccinated, or show no sign of rabies, can be watched under supervision of a town health officer. If they don't develop rabies within 10 days, you will not get rabies."[17] Though it is not always necessary to confine the alleged offending dog off-premises, it can be confined at a facility at the owner's expense if the health officer believes the owner will not be able to confine the dog adequately. If the health officer determines that the owner of the animal will not be able to confine it on-premises for the requisite 10-day period and the owner refuses to turn the dog over to the health officer's custody, then he or she may apply to court for issuance of a search warrant to a law enforcement officer to search the premises and seize the animal pursuant to 20 V.S.A. § 3551.

---

[16] *Dogs Put $489M Bite on Home Insurance Industry*, ABC News (May 29, 2013), http://abcnews.go.com/Business/dogs-bite-insurance-industry-479-million/story?id=19274676.
[17] Vermont Department of Health, *Rabies Facts,* available at http://healthvermont.gov/prevent/rabies/rabies_fact.aspx (last visited June 9, 2013).

2. The Complaint and Proper Notice

The question of whether a dog should be taken for a walk over Rainbow Bridge (humanely disposed of) most frequently arises in the context of a "vicious dog" hearing that results from receipt of a written dog bite complaint. Certain conditions must be met in order to trigger a mandated hearing in which the selectboard will sit in judgment. First, the person lodging the complaint must have been bitten off the premises of the owner or keeper of the dog. "Premises" is defined as "(a) house or building, along with its grounds" which is different from the broader term "property" which is defined as "(a)ny external thing over which the rights of possession, use, and enjoyment are exercised."[18] This distinction is important because while a car or truck is property it is not considered "premises" in the eyes of the law and therefore a hearing would still have to be held if a dog bit a person while it was confined within a person's vehicle. Second, the complainant must have required medical attention for the attack. The complaint must include the time, date, and place where the attack took place, the name and address of the victim(s), and any other facts that could aid in the selectboard's investigation. Selectboards should follow up with complainants when this information is incomplete and inform them that, absent the required information, the request for a hearing cannot be honored. Towns may utilize the model dog bite complaint form found in Appendix A to assist in the administration of complaints.

It should be noted that towns are only required to perform their statutorily imposed duty to investigate and control vicious dogs upon receipt of a written complaint. A town's obligation to destroy or to even impound dogs in this regard is discretionary, not mandatory. Generally speaking, government employees are shielded from exposure to personal tort liability under the doctrine of qualified official immunity when performing discretionary acts within the scope of their authority. In addition, towns themselves are generally shielded from liability for their negligent acts, so long as those acts occur while the town is acting in its "governmental" (as opposed to proprietary) capacity. Furthermore, generally speaking, absence a duty of care, an action in negligence will fail. Here the duty of care rests with the owner or keeper of the dogs who is responsible for his or her dogs' actions, not the town.[19] Even if an individual was attacked by a dog that the town knew had a vicious disposition, an action in negligence will likely fail. Commenting on a town's failure to act when notified of such a propensity, the Vermont Supreme Court ruled that "Despite the statute's general title, 'investigation of vicious dogs,' it deals specifically with investigation of dogs that bite rather than any general right to control dogs. In this case, defendants' ability to exercise control over dogs exists in narrowly circumscribed conditions and is statutory, not contractual, in nature. ... The town's right to control dogs that bite does not give rise to a generalized duty to control vicious dogs." *Rubin v. Town of Poultney*, 168 Vt. 624 (1998).

The selectboard's window for action is short. It must complete its investigation and hold its hearing within seven days from receipt of the written complaint. If the complaint is incomplete, the selectboard should begin counting from the date the amended complete complaint form is returned to the town. The relatively quick turnaround most likely reflects the immediacy of addressing an ongoing potential public safety hazard because the controlling statute doesn't give any indication that the dog suspected of being vicious has actually been impounded. The threat of another bite presumably would be prevented because this seven-day timeframe falls within the

[18] Black's Law Dictionary (7th ed. 1999).

[19] The elements of negligence include: 1. a duty of care; 2. breach of that duty; and 3. damages. A duty of care derives from the idea that is the party in control who is in the best position to protect against harm.

ten-day quarantine period, which is the time designated by the Vermont Department of Health that the dog must be kept from any contact with all people and other animals. Of course, if the dog has already been impounded, the threat it poses to the general public is neutralized, abating the urgency to act within this narrow timeframe. The requirement that the selectboard conduct its investigation and hearing within seven days then begs the question: how much notice should be provided the dog's owner? 20 V.S.A. § 3546(b).

The only mention of notice in this context are the words "said owner shall be provided with a written notice of the time, date and place of hearing and the facts of the complaint." The law informs us what the notice for a vicious dog hearing must include and to whom it must be sent, but it is silent as to when it must be provided. This is one of those areas of the law that the legislature tells you what you must do and when to do it, but omits the detailed steps of how you actually do it. That's where we as attorneys come in, balance the rights and interests at play, take into consideration past case law, look at how other hearings are conducted, and provide guidance to help you fill in the gaps to avoid being sued. Knowing that the selectboard must conduct its investigation and hold a hearing "within seven days from receipt of the complaint" we can deduce that the notice which precedes the hearing falls within a seven-day timeframe. But how much notice is enough? One day? Two days? Seven? This is a question of first impression, meaning that it hasn't been resolved by the Vermont Supreme Court. Until this question is fully litigated, we can't provide you with an answer that we're 100 percent confident in. However, certainly the more notice, the better – which means that processing the complaint will need to be handled quickly in order for a hearing date to be set and notice delivered as soon as possible. (A Model Notice to Owner of Vicious Dog Hearing and Response to Vicious Dog Complaint can found in Appendices D and B, respectively.) It shouldn't go without notice that the legislature contemplated instances when no notice would be provided. "***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." 20 V.S.A. § 3546(b), emphasis added. If your animal control ordinance specifies a period of time for providing notice that is greater than the seven days the law provides for holding its hearing, it should be followed. The rationale behind this approach is that it is more important to be mindful of the dog owner's due process rights than strict compliance with a statutory deadline lacking an enforcement mechanism.[20] Because 20 V.S.A. § 3546 does not provide a negative consequence for failure to comply with the time requirements set forth therein, the legislature intended it to be directory rather than mandatory. And since the due process rights of the owner are given greater protection when more notice is provided, towns shouldn't feel beholden to this seven-day timeframe. Still, if you can't hold the hearing within this seven-day timeframe we would recommend that you, at the very least, warn it within this timeframe counting the seven days from the date of receipt of the complaint.

As for delivery, we recommend sending the notice via certified mail, return receipt requested, which is the best method for guaranteeing delivery and obtaining documented proof of receipt. The person setting all this in motion (the complainant) should also be notified of the hearing's time and date, despite the lack of a requirement in the law. His or her attendance will help

[20] In the case of *In re Mullestein* the Vermont Supreme Court held that a statutory time period such as that for holding a vicious dog hearing is not mandatory "unless it both expressly requires an agency or public official to act within a particular time period and specifies a consequence for failure to comply with the provision." 148 Vt. 170, at 173-74 (1987).

substantiate the allegations made by answering any questions the selectboard may have and aid it in assessing how much weight to give his or her testimony. Yet in the final analysis, neither complainant nor even the owner's presence has a bearing on the selectboard's statutory obligation to investigate the incident and conduct the hearing. If it were, it would be impossible to determine what to do with a stray dog that has bitten someone. Anyone can testify who has relevant information about the incident, and it is the testimony received during the hearing that will be a basis for the selectboard's findings of facts, conclusions of law, and decision.

There is one final notice that must be provided and that's the public notice – but you wouldn't be aware of it by reading the vicious dog hearing statute. Though vicious dog hearings lack a specific statutory public notice requirement, they, like other quasi-judicial hearings, must also be held in the public[21] and must be adjudicated by at least a bare quorum of the selectboard. Providing public notice also accomplishes another important objective: it informs those other than the owner and the complainant (victim) of the opportunity to testify. There may be people who witnessed the attack or who have had past experiences with the dog in question who can help inform your decision. Also, keep in mind that the incident prompting the hearing and demanding your attention is a potential public safety hazard and some in the public will be concerned about whether the threat is real and how it is addressed. More likely than not, unless the hearing falls within the timeframe for the selectboard's next regularly scheduled meeting, it will have to be warned as a special meeting. The time, place, and purpose of a special meeting must be publicly announced at least 24 hours prior to the meeting. The notice must be posted in or near the town clerk's office and in at least two other public places in town. Also, unless waived previously, notice must be given orally or in writing to each member of the board. Any editor, publisher, or news director of any newspaper or radio or television station serving the area that requests notification of special meetings must also be notified. 1 V.S.A. § 312(c),(5). (A Model Vicious Dog Public Hearing Notice is in Appendix C.)

3. What to Do With the Dog During the Hearing?

Ideally, the dog which is the subject of the complaint would be impounded pending the duration of the hearing and the issuance of the selectboard's protective order, but if the town doesn't have its own pound but rather contracts with the regional animal humane society, this may not be possible. Many humane societies will refuse to house a dog accused of committing a vicious attack. In that instance, the dog most likely will stay with its owner during this time. If the selectboard fears another attack or that the dog will be removed from the town, it should attempt to impound the dog and shelter it temporarily with a local kennel and allocate the costs to the dog's owner. If the dog is already in the town's possession, then it should have a provision in its animal/dog control ordinance that the dog will not be released (if at all) until the selectboard renders its decision as to whether or not it is vicious and the boarding fees are paid.

4. The Purpose of the Hearing

Before we walk through the hearing, it is important to know what the selectboard is trying to achieve. The hearing has two principal objectives. The first is to determine whether "the domestic pet or wolf-hybrid is found to have bitten a victim without provocation..." If the

[21] Only the deliberations of quasi-judicial proceedings are specifically exempted from Vermont's Open Meeting Law.

selectboard finds this to be the case, then the selectboard "shall make such order for the protection of persons as the facts and circumstances of the case may require..." So your first objective is to find out whether the dog bit someone without provocation. This should be revealed easy enough by asking the victim and any available witness questions surrounding how the attack occurred. If the selectboard finds that the dog was provoked, it would state in its written opinion that, given the following facts, the selectboard finds that the dog was provoked and therefore is not considered vicious. If the dog was not provoked, then your second objective is to determine what measure the selectboard should impose to protect the public from this dog. The punishment imposed must be warranted by "the facts and circumstances of the case..." The imposition of this next level of inquiry necessitates additional fact finding on behalf of the selectboard. Failure to fit the punishment to the crime increases the likelihood that the selectboard's decision will be appealed and its protective order vacated or modified.

That is exactly what happened to the City of Rutland Board of Aldermen in the case of *Miller v. City of Rutland*, Docket No. 513-7-10 Rdev. The facts of the case date from April 3, 2010: Rutland resident John Moore was walking his dog in Ciofreddi Park when he noticed two dogs running towards them. Both were leashed, however neither was under the control of their owner, William Miller. One of the dogs, a black lab-mix named Zoey, attacked Mr. Moore's rat-terrier mix by grabbing it around its neck. Mr. Moore was injured trying to protect his dog, but it should be noted that Zoey did not bite him. Rather, he cut his thumb on her tooth trying to extricate his dog from her clutches. Both Mr. Moore and his dog received medical attention for their wounds and Mr. Miller was cited for Zoey's bad behavior. This wasn't the first time that Zoey had exhibited aggressive behavior. With an obvious fondness for clichés, Zoey twice attacked the Millers' mailman, who had to fight her off with his mailbag, though the dog did not bite him either time. The Rutland City Board of Aldermen held a hearing and found Zoey to be a vicious dog under a provision of its ordinance defining a vicious dog as one "which attacks or bites a person or other domestic pet and the person or pet attacked or bitten requires medical attention." City of Rutland Ordinance § 13-2552(e). The ordinance, like the state's vicious dog statute, requires the aldermen to hold a hearing upon written complaint and make an order to protect the public if the dog is found to be vicious. Having found Zoey to be vicious, the aldermen permanently barred her from the city limits.

The Millers, unwilling to give up Zoey without a fight, appealed the City's decision. The Rutland Superior Court agreed with the aldermen that Zoey did commit a vicious act and fit the City's definition of a "vicious" dog. However, it did not agree with its protective measure to banish her. Instead the court appointed a veterinarian to examine Zoey for aggressive and vicious behavior. On the basis of the veterinarian's findings, the court lifted the aldermen's protective order and found Zoey's actions warranted no more than to be kept under the control of its owners at all times, to avoid engaging in further vicious acts, and that she be examined by a veterinarian who the Millers must also consult with regarding aggression training.

The *Rutland* case highlights this two-tiered analysis by a selectboard in conducting a vicious dog hearing:

1. determining whether the dog bit the victim without provocation; and
2. rendering a protective order commensurate with the facts and circumstances of the case.

Returning to our original question: Is it the job of the selectboard in these instances to find that a dog committed a vicious act or, alternatively, to find that it is a "vicious" dog? The answer is that

it's really its job to do both. This doesn't mean that, like the Rutland Superior Court, the selectboard must bring in an experienced veterinarian or local animal shelter employee who conducts such tests as part of the intake process for determining whether dogs are "adoptable" to conduct a vicious dog assessment – though this is certainly something that an owner could do and enter into evidence or an evaluation that the selectboard could order and attribute the costs to the owner of the dog. What it does mean is that the selectboard should do its due diligence to ensure its protective order emanates from the facts and circumstances of the particular case before it, is reasonably related to protecting the public safety, and is fair to the dog and its owner.

THE HEARING

Now that we've gotten the notice, what to do with the dog during the hearing, and the hearing's purpose out of the way, we can turn our attention to the hearing itself.

What does the legislature mean when it says you must conduct a vicious dog hearing? What is meant by the word "hearing"? State law gives us a definition of what a "quasi-judicial hearing" is, and since you're not actually a court of law, this definition describes the proceedings of local bodies that are acting like a court. A quasi-judicial proceeding is a "case in which the legal rights of one or more persons who are granted party status are adjudicated, which is conducted in such a way that all parties have opportunity to present evidence and to cross-examine witnesses presented by other parties, which results in a written decision, and the result of which is appealable to a higher authority." 1 V.S.A. § 310(5). The selectboard is a quasi-judicial board in this context because it is acting "like" a court. Breaking this definition down into its component parts, we can see the process of a hearing take shape: (1) the rights of persons are being considered; (2) the parties must have an opportunity to present evidence; (3) parties may cross-examine witnesses and question evidence presented; (4) the hearing must result in a written decision; and (5) the decisions is appealable to a higher authority (in this instance, superior court).

The legislature directs you to provide notice to the person (owner) whose dog (property) he or she may lose (be deprived of) with a hearing (an opportunity to be heard). If the combination of these parentheticals sounds familiar, it should. The Fourteenth Amendment to the U.S. Constitution states in part, "... nor shall any state deprive any person of life, liberty, or property, without due process of law ..." We know from this, therefore, that the due process rights of dog owners are at play here. But what does that mean? Due process is the administration of justice by government according to established rules. It protects citizens from the abuses of government power by ensuring that the hearing process under valid laws is fair and impartial. Essential elements of procedural due process therefore include not only one's rights to notice and an opportunity to be heard but also the right to a fair hearing before an impartial decision maker. (That's you!)[22] There are many elements to a fair hearing, but at a minimum they include the right to know and confront all evidence (which requires all evidence to be presented only in the context of the open hearing and managed properly), the right to an orderly proceeding (which requires rules governing process and participation), and the right to a hearing free of ethical dilemmas (which requires the management of conflicts of interests, including ex parte communications– i.e., speaking with participants outside of the proceeding – and prejudging the

[22] On this point the U.S. Supreme Court has held that "[a] fair trial in a fair tribunal is a basic requirement of due process." *Murchison, supra,* at 136, 75 S.Ct. 623.

matter before the case is heard). So constitutional considerations give us some further indication of what a hearing looks like and how it should be conducted.

1. Rules of Procedure

With these factors in mind, we can now establish rules of procedure to ensure these constitutional protections are in place and to facilitate an efficient and effective hearing. (Those rules, VLCT Model Rules of Procedure for Selectboard Vicious Dog/Wolf-Hybrid Hearings, can be found in Appendix E). The rules are important not only to ensure that a fair hearing is protective of the dog owner's rights but also serve as a road map for the selectboard.

Each hearing should be conducted according to the selectboard's rules of procedure setting forth the sequence of events governing the proceeding. A copy of these rules should be made available to all selectboard members, parties, and the public prior to the commencement of the hearing so that all are aware of what is to be expected. The chair opens the hearing by reading the warning for the hearing, followed by the victim's complaint, and a statement that the hearing is mandated by Vermont State Title 20, Section 3546. The chair should also remind all attendees that the hearing is *in* the public, not *of* the public. As such it will be conducted in an orderly manner according to the selectboard's rules of procedure, and that no public comment will be taken unless it is relevant to the complaint made and the dog subject to the hearing. Selectboard members should be asked to disclose any conflicts of interest or ex parte communications with the participants and recuse themselves from the hearing when a conflict or the appearance of a conflict is present. The complainant, dog owner, and all others testifying are then sworn in prior to testifying.

2. Managing Evidence and Testimony

It is important for the selectboard to properly manage the evidence it receives. Each document it receives should be marked with any necessary identifying information. A participant may submit any evidence. It is up to the selectboard to determine what submitted evidence is credible and relevant to the disposition of the matter before it.

The chair should manage the testimony by requiring speakers to introduce themselves and to prevent participants from talking to or over each other. Selectboard members should ask all those appearing any questions they deem necessary to determine whether the dog bit someone off the owner's premises without having been provoked and, if so, what protective order is warranted by the facts and circumstances of the attack.

3. Concluding the Hearing, Deliberations and the Written Decision

Upon motion and majority approval, the chair can either adjourn the hearing to a time and date certain (e.g., to obtain additional evidence), or close the proceedings by stating that this is the final public hearing on the matter. The selectboard will then conduct a public deliberation, or may vote to enter into a private deliberative session, in which case the written decision of the selectboard setting forth its findings of facts, conclusion of law, and decision with or without a protective order for the dog will be delivered to the owner by certified mail. A public deliberation allows the public to observe but not participate in the consideration. A private

deliberative session allows a selectboard to make its decision in a neutral environment, where it is able to freely discuss, without undue pressure, the reasons for and against granting its decision and order. This is an exemption to Vermont's Open Meeting Law (OML) that allows the selectboard to weigh, examine, and discuss the reasons for and against issuing a protective order and what form it should take. The OML does not extend to "the judicial branch of the government of Vermont or of any part of the same or to the public service board; nor shall it extend to the deliberations of any public body in connection with a quasi-judicial proceeding." 1 V.S.A. § 312(e). This process is analogous to a jury deliberating in private during a court proceeding. The written decision of the selectboard will serve as its final decision.

Each written decision should include such basic information as the names of the complainant and dog owner, a description and name of the dog, its license number and whether it has a current rabies vaccination, the date and time of the hearing, the names of selectboard members who participated in the hearing, all persons who testified, and should reference the written evidence proffered. In addition to the selectboard's conclusion as to whether the bite occurred off the owner's premises and without provocation, the decision should include the selectboard's findings of fact. These are facts gleaned from the evidence presented at the hearing that the selectboard deems credible and relevant and which it will use to develop and support the reasons for its decision and order. There is no statutory deadline for issuance of vicious dog decisions. The selectboard should take whatever reasonable amount of time is necessary to prepare a complete and accurate decision and, if applicable, protective order. Just as with any action by the selectboard, a majority of the members of the board must concur in their vote to render a decision. The law governing taking action states that "When joint authority is given to three or more, the concurrence of a majority of such number shall be sufficient and shall be required in its exercise." 1 V.S.A. § 172. This means that if only three members of a five-member board are available, the board is able to convene, but all three must agree in order to take any action.

THE PROTECTIVE ORDER

The decision/protective order is the articulation of the selectboard's determination of whether the dog is found to have bitten the victim *without provocation* and, if it has, its order for the "protection of persons." The "persons" to be protected include not only the victim but the public at large. A protective order that compels the humane disposition of every dog found to have bitten a person without provocation will certainly protect the public from the dogs subject to the order, but it will also likely lead to increased appeals to your decisions to superior court. In addition, it doesn't prevent the owner who may have been responsible for the dog's behavior from acquiring another dog, nor is it fair to the dog that may not have been acting viciously and suffers the consequences of an irresponsible owner. Arriving at a protective order that balances the rights of owners and the safety of the public is not an onerous task, but it does require having a rudimentary understanding of dog behavior in general (namely, how they communicate with us and distinguishing between acceptable or normal aggressive behavior and abnormal aggressive behavior) and engaging in some simple fact-finding to tailor your order to the specific factors causing the behavior that is driving the complaint. To highlight the potential benefits of this approach, consider the following hypothetical scenario: a person comes across a dog running at large with a tennis ball in its mouth. The dog is a small breed, doesn't seem threatening, and has a collar and tag. Assuming that the dog is not a stray, but rather someone's pet, the person deduces that the dog is accustomed to a certain level of human engagement and reaches for the ball to play a game of fetch. The dog is silent. It doesn't bark, grunt, or growl, but stares intently

at the person. Just before the person touches the ball, the dog drops it and nips the person's hand. Who's to blame? The person gets a couple of stitches for his injury and submits a written complaint to the selectboard. The selectboard holds a hearing, finds that the dog wasn't provoked, and orders that it be humanely disposed of. There is no question that the dog was running at large and that its owner should be cited, but did it deserve to be put down?

1. Reasons Why Dogs Bite

Dog bites typically happen for a number of reasons. Knowing these causes can often go a long way towards instructing what questions you should ask the dog's owner during the vicious dog hearing and fashioning the protective measures of the selectboard's order. For example, some dogs bite because, unbeknownst to their owner, they are physically sick. Consider asking the owner these questions at the hearing: When was the date of the dog's last veterinarian visit? Has there been any noticeable change in the dog's physical appearance or demeanor? Has the dog been attacked or has it been bitten itself recently? Depending on the answer to these and other questions, and based upon the facts and circumstances of the case, your protective order sets forth certain conditions specific to these root causes. Other reasons for bites are that the dog (1) is unaltered (unneutered/unspayed); (2) has been trained to act aggressively; (3) has been abused or neglected (or has been chained up for extensive periods of time); (4) chases moving objects; and (5) acts out of protective or territorial instinctive behavior.[23]

2. Dog Talk

Like other social animals, dogs communicate using both auditory and visual means. What a dog is trying to communicate goes a long way to deciphering the intent behind its behavior, thereby enabling more effective management through protective orders and more efficient and effective regulations. Dogs communicate with us all the time. The problem, more often than not, is that we're not listening. The key to avoiding misinterpreting their behavior is to understand what they are saying. Your interactions with a dog is akin to talking with someone who speaks a different language from you. The inability to communicate with someone increases the likelihood of misunderstandings and can lead to confrontations and eventually disengagement. Sure, we can teach dogs to understand what we're saying, but our capacity to understand them is far greater than their capacity to understand us. Consider this classic example: you approach a dog to pet it and the dog responds by growling. One thing a dog's growl communicates is a defensive warning – the dog may be telling you to back off. Not knowing this, you nevertheless try to pet the dog. The dog responds by nipping your hand. Certainly this result could have been easily avoided absent the obvious language barrier. The fostering of better interspecies communications can be accomplished by familiarizing yourself with the five primary categories of dog sounds:

1. Bark: communicates defense, play, greeting, lone call, call for attention, warning;
2. Grunt: communicates greeting, sign of contentment;
3. Growl: communicates defense warning, threat signal, play;
4. Howl: communicates need for social interaction/assembly, other reasons unknown; and
5. Whimper/whine: communicates submission, defense, greeting, pain, attention seeking.[24]

---

[23] Cynthia A. McNeely & Sarah A. Lindquist, *"Dangerous Dog Laws": Failing to Give Man's Best Friend a Fair Shake at Justice*, 3 J. Animal L. 99, 107 (2007).
[24] *Id* at 105.

It is a misconception that a dog will bark before it bites someone. Usually, a dog is silent prior to attacking someone. A dog typically uses body language and facial gestures as another method of communication. The dog in the example with the ball employed the stare, which is the most commonly used facial expression to communicate an impending attack. Aggressive dogs also often bare their teeth, curl their lips, and raise their hackles (the hairs along the dog's backbone).[25] Next, the dog had in its mouth a tennis ball. His reaction could be considered a manifestation of possessiveness – a form of aggression applicable to protecting non-food items – but this is a perfectly normal behavioral trait and hardly constitutes the type of abnormal aggressive behavior (viciousness) that is dangerous to people, domestic animals, and other domestic pets warranting the dog's destruction. Armed with this information, a selectboard can formulate questions to determine whether the attack was provoked and, if so, arrive at a protective order appropriate in scale to the facts and circumstances of the case.

3. What Should the Protective Order "Order"?

Options for what measures the selectboard can order or impose upon the owner or keeper of the dog in its protective order include that the dog be "disposed of in a humane way, muzzled, chained, or confined." These, however, are not the selectboard's only choices, for the law uses the phrase "without limitation." These measures are only examples meant to illustrate what actions may be appropriate, not an exhaustive list. All of the legislature's examples have one thing in common: the punishment is to the dog (humanely destroying it, or restricting its ability to interact), and not a punishment of the owner's behavior. Speaking generally to these types of laws, Dr. Randall Lockwood, Senior Vice President for Anti-Cruelty Initiatives and Legislative Services for The American Society for the Prevention of Cruelty to Animals (ASPCA) commented that "existing laws tend to ignore the needs of the animals and place the burden of punishment on the animals, rather than on the irresponsible owners who are ultimately responsible for the problems caused by their pets."[26] What's worse than imposing an inequitable sanction is imposing one that is ineffectual or even detrimental to the public's safety.

An owner who fails to understand how or refuses to take responsibility for his or her dog is unlikely to do so in the future when he or she comes into possession of another dog that does not fall under the previous dog's protective order. Moreover, some so-called remedies actually do more harm than good.[27] Numerous attacks on people by tethered dogs have been documented. Tragically, the victims of such attacks are often children who are unaware of the chained dog's presence until it is too late. Furthermore, a tethered dog that finally does escape from its chain may remain aggressive, and is likely to chase and attack any unsuspecting passersby or pet. This certainly supports why the U.S. Department of Health, Centers for Disease Control, found that

---

[25] *Id* at 105.

[26] Girgen, at 131.

[27] For example, ordering that a dog be chained at all times in response to a complaint that the animal is running off its owner's property and biting people is at first glance an eminently rationale response. After all, if the dog is chained, it can't escape its owner's property and can't bite someone. The problem comes in what chaining does to a dog. Dogs are social, intelligent, animals that crave interaction and stimulation to be happy and healthy. Chaining a dog for prolonged periods of time elevates its abnormal aggressive behavior by forcing it to revert to instinctive or even neurotic behavior due to lack of socialization and territorialism (both major reasons why dogs attack in the first place). According to The Humane Society of the United States, "(d)ogs feel naturally protective of their territory; when confronted with a perceived threat, they respond according to their fight-or-flight instinct. A chained dog, unable to take flight, often feels forced to fight, attacking any unfamiliar animal or person who unwittingly wanders into his or her territory."

most fatal dog attacks occur on the owner's premises and why more than 100 municipalities and 30 states around the country (including Vermont) have passed legislation either outlawing chaining dogs or regulating the amount of the time and under what conditions dogs may be chained or tethered.[28]

According to Vermont's animal cruelty law, "[a] dog chained to a shelter must be on a tether chain at least four times the length of the dog as measured from the tip of its nose to the base of its tail, and shall allow the dog access to the shelter." 13 V.S.A. § 365(f). If your order includes restricting the dog's movement, The Humane Society of the United States (HSUS) recommends that you keep the dog indoors. If it must be outside, you should place it in a well fenced yard or a pen of suitable square footage which includes access to shelter from the elements. If chaining or tethering is absolutely necessary, HSUS recommends instead using a pulley run, which is a long line to which the dog's leash is attached. You might also consider enabling legislation from states like Massachusetts that are following an emerging trend in dog control by putting the responsibility where it rightly belongs: on the owner.[29]

Fortunately, the Vermont Legislature had the foresight to recognize that the examples of enforcement that it provided may change over time and not effectively protect the public. It did this by enabling you to enact protective measures "without limitation." Unfortunately, when specific examples aren't provided, they tend to be out-of-sight and out-of-mind, meaning that most towns simply impose sanctions that are expressly referenced by the legislature. This is where there is an opportunity for you to use some imagination when issuing a protective measure, such as:

1. Ordering an unaltered dog to be neutered, unless a veterinarian deems the animal unfit due to a medical condition. Most dog attacks are perpetrated by unaltered dogs.
2. Requiring the owner to successfully complete a responsible dog owner course. Oftentimes, the aggressiveness a dog demonstrates is attributable to irresponsible ownership.
3. Requiring the dog to successfully complete the American Kennel Club's "Canine Good Citizen Program." This program – which promotes responsible dog ownership and well mannered dogs that are accepting of friendly strangers, interact positively with other dogs, and react appropriately in public – is recognized by the Vermont Legislature in Joint Resolution No. R053 in the 2009-2010 Legislative Session.
4. Requiring that the owner provide proof of an adequate amount of insurance (say, $100,000) to protect the owner against any loss, damage or injury to persons, domestic animals and pets, or property resulting from the acts of its dog.

Having found that a dog bit someone without provocation is not sufficient justification to order its humane disposal, though such an order may be appropriate and necessary if the circumstances

---

[28] Little Rock, Arkansas, which has had a vicious dog problem, prohibits the tethering of dogs to a stationary object, legislation that it credits in part to reducing vicious dog attacks by half.

[29] Originally, issues such as these were left to the courts; they were civil suits between private parties addressed by application of negligence theories of the common law. The elements of negligence include (1) a duty of care, (2) breach of that duty, and (3) damages. Absence a duty of care, an action in negligence will fail. Here the duty of care rests with the owner or keeper of the dog, not the town, as it is the owner who is responsible for properly restraining his or her dog. A duty of care derives from the idea that is the party in control who can best protect against harm. This emerging trend in dog control recognizes that unless this responsibility is returned to the owner, then a town's costs in enforcing against repeat offenders will continue to spiral out of control.

of your hearing call for it. Ordering a dog to be humanely destroyed is the easiest and surest solution to preventing the animal from posing any threat to the public, but it's also overly relied upon. Massachusetts and other states now recognize that the best way to control dogs is to impose responsibility upon their owners. A refusal to, for example, commit to a responsible dog ownership class, is indicative of a lack of commitment to their dog and, hence, to their neighbors and their community. That is why your order should condition relinquishment of their property interest in their dog upon satisfactory proof of completion of the conditions you impose. Requiring dog owners to exercise the duty of care that they should have exercised from the beginning will make them more mindful of their responsibilities now and in the future.

THE APPEAL

Vermont's vicious dog law is silent as to appeals from vicious dog hearings, so any appeal of a selectboard's decision may be brought in superior court. "Any action or failure or refusal to act by an agency of the state or a political subdivision thereof, including any department, board, commission, or officer, that is not appealable under Rule 74 may be reviewed in accordance with this rule if such review is otherwise available by law." Vermont Rules of Civil Procedure (V.R.C.P.) Rule 75. This is the process of appeal for any decision of "an agency of the state or a political subdivision thereof, including any department, board, commission, or officer" when there is no statutory appeal process. When no time limit is specified by statute, "the complaint shall be filed [with the Court] within 30 days after notice of any action or refusal to act of which review is sought ... and, in the event of a failure to act, within six months after expiration of the time in which action should reasonably have occurred." V.R.C.P. 75(c). If a timely appeal is filed, the superior court for the town's county will conduct what is called a "*de novo*" trial. At a de novo (which is Latin for "anew") hearing, the court will take evidence, make findings and conclusions, and essentially proceed as if the selectboard's hearing had not been previously heard and decided. The court may "affirm, reverse, or modify" the selectboard's decision. V.R.C.P. Rule 75(d). Until that time, any decision and/or protective order rendered by the selectboard will remain in force and effect unless a motion to stay (i.e., a suspension of the selectboard's decision) is granted by the court. V.R.C.P. Rule 75(c). If the selectboard receives a complaint seeking an appeal of its decision, it should seek legal help from its attorney.

FAILURE TO COMPLY WITH THE PROTECTIVE ORDER

But what happens if the selectboard issues a protective order, no appeal is filed, and the dog owner fails to comply with the order's terms? The governing law states that "[a] person who, after receiving notice, fails to comply with the terms of the order shall be subject to the penalties provided in Section 3550 of this chapter." 20 V.S.A. § 3546(c). Title 20, Section 3550 is a little used provision of state law which provides a self-executing enforcement mechanism for violations of state licensing and inoculation laws, as well as municipal ordinances that regulate the "keeping, leashing, muzzling, restraint, impoundment, and destruction of domestic pets or wolf-hybrids and their running at large ..." 20 V.S.A. § 3549. Typically, towns opt to follow the enforcement provisions in their own ordinances rather than the complex and time-consuming process laid out in 20 V.S.A. § 3550 for determining the civil penalty to be issued against the violator. Since the protective order already sets forth the necessary remedial action to protect public safety, the only provision of 20 V.S.A. § 3550 that is applicable when an order is not followed is 20 V.S.A. § 3550(j), which provides that on "application of a municipality or the commissioner, the superior court shall have jurisdiction to enjoin the violation of any provision

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." Selectboards should work closely with their town attorneys if they are considering bringing an enforcement action in superior court.

VOTER ENABLED ORDINANCE

There is one alternative to the vicious dog hearing: the voters, at a duly warned special or annual town meeting, may authorize the selectboard to adopt or amend its dog control ordinance to lay out a different process. 20 V.S.A. § 3546(e). This section of the statute, which was added in 2007, represents one of the few instances in Vermont law in which voters must first empower its selectboard to adopt or amend an ordinance. If the voters do vest this authority with its selectboard, that selectboard is under no obligation to act upon that authorization. On the other hand, if a selectboard wanted to take a different approach to handling vicious dog hearings, it would have to first seek approval from its voters to do so. What makes this section particularly puzzling is that the voters would still retain their authority to file a petition for permissive referendum with the selectboard to override the selectboard's action ... as if things weren't already confusing enough.

CHAPTER IV
ANIMAL CRUELTY

Cruelty towards animals is a crime that pertains to all "sentient creatures, not human beings." As such, it is somewhat broader in scope than the limited focus of this handbook. A person found guilty of animal cruelty may be imprisoned, ordered to undergo psychiatric or psychological counseling, forfeit the right to own animals now and in the future, participate in animal cruelty prevention programs, pay a fine of not more than $5,000, and other penalties. 13 V.S.A. § 353. Vermont's criminal animal cruelty laws are enforced by "humane officers," which includes law enforcement officers, locally appointed animal control officers, deputy game wardens, officers, employees, or agents of a humane society, any officer to serve criminal process, and any officer or agent of the local board of health. 13 V.S.A. § 351(4).

The local board of health (i.e., the selectboard and health officer) is a humane officer authorized to accept and care for animals alleged to have been mistreated, obtain a search warrant and seize animals, rescue an animal in imminent peril, arrange for euthanasia of a severely injured animal, and file motions in any ensuing criminal action. 13 V.S.A. § 354. Despite this statutory language, towns typically lack the resources, training, and experience to enforce the state's animal cruelty law effectively. Therefore we recommend that if you receive an animal cruelty complaint, you should contact the local humane society or a law enforcement officer, such as the state police. But for those towns that prefer to develop this capability in-house, there is the Vermont Animal Cruelty Task Force.

The Vermont Animal Cruelty Task Force is "a statewide coalition of private and governmental agencies and associations that have joined to coordinate Vermont's efforts to prevent and respond to animal cruelty through communication, education, training, legislation and enforcement."[30] The organization has compiled a comprehensive manual to help familiarize humane and law enforcement officers with Vermont's animal cruelty laws, recognize signs of abuse and neglect, process and investigate animal complaints, and enforce the law. You can download the manual at www.vactf.org/manual/download.php. The manual includes VLCT's Model Civil Animal Cruelty Ordinance, which allows towns to hold animal owners to even higher standards for the humane treatment of animals than that set by the state's criminal laws.

[30] Vermont Animal Cruelty Task Force, What is the Vermont Animal Cruelty Task Force?, available at http://www.vactf.org/ (last visited June 9, 2013).

CHAPTER V
"ASK SPOT"

This chapter is a collection of frequently asked dog-related questions the Municipal Assistance Center has received over the years not addressed by other chapters of this handbook answered by our resident dog expert himself.

SERVICE DOGS

Question (Q): What is the definition of a "service animal"?

Spot (S): The definition of a service animal includes "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." If they meet this definition, they are considered service animals under the Americans with Disabilities Act (ADA) regardless of whether they have been licensed or certified by the town and are protected by the ADA.

Q: ***Do service dogs need to be licensed?***

S: Service dogs must be licensed and inoculated in the same manner as all other dogs/wolf-hybrids in the state. State law does not distinguish between service dogs and other dogs or wolf-hybrids for these purposes.

Q: ***Are owners of service dogs exempt from paying licensing fees?***

S: There is nothing in state statute exempting service dogs from licensing fees. It is our opinion that a town may waive its portion of the licensing fee, so long as the state's fees are collected. Unless the town's charter provides otherwise, if a clerk is compensated by the fee, it is the clerk's decision to make. If the clerk is compensated by a salary, the selectboard should make the decision. In either case, if licensing fees are to be waived, it would be a good practice to set this out in a written policy.

Q: ***If I choose to exempt service dogs from local licensing fees, can I request information to determine whether a dog is a service dog?***

S: Only for purposes of voluntarily agreeing to waive local licensing fees and penalties that would otherwise accrue to the town clerk as compensation and not for purposes of denying access for programs, activities and services to qualified individuals with disabilities protected under the ADA.

Q: ***A patron of our town library brings her dog in with her? Do we have a right to ask for proof that her dog is a service dog?***

S: No. Title II of the ADA covers programs, activities, and services of public entities and protects qualified individuals with disabilities from discrimination on the basis of disability in the services, programs, or activities of all State and local governments. Federal law on this matter explicitly precludes such inquiries. "A public entity shall not require documentation, such

as proof that the animal has been certified, trained, or licensed as a service animal." All that you are allowed to ask is if the animal is required because of a disability and what work or task the animal has been trained to perform. 28 C.F.R. § 35.136(f).

That does not mean however that the town may not take all other measures available under state law to enforce against the owner of a service dog for failing to license and inoculate it.

Q: When can a town ask someone to remove a service dog from a municipal building?

S: A public entity may ask an individual to remove a service dog from its premises only under two conditions:

> (1) The animal is out of control and the animal's handler does not take effective action to control it; *or*
> (2) The animal is not housebroken. 28 C.F.R. § 35.136(b).

In the event a service dog is excluded for any of the above reasons, the town must still provide the individual with a disability the opportunity to participate in its services, programs, and activities without having the dog on the premises.

Q: *What are the rules governing the use of service dogs in town buildings?*

S: All service dogs must be under the control of their handlers. According to federal regulations, "A service animal shall have a harness, leash, or other tether, unless either the handler is unable because of a disability to use a harness, leash, or other tether, or the use of a harness, leash, or other tether would interfere with the service animal's safe, effective performance of work or tasks, in which case the service animal must be otherwise under the handler's control (e.g., voice control, signals, or other effective means)." 28 C.F.R. § 35.136(d).

ABANDONED and STRAY DOGS

Q: *What is the definition of an "abandoned" dog?*

S: Title 20, Section 3511 defines an abandoned animal[31] as one that is placed in the custody of a veterinarian, veterinary hospital, boarding kennel, stable or other person or establishment for treatment board or care and:

(1) *Having been placed in custody for a specific period of time, the animal is not removed at the end of the specific period and a notice to remove the animal within ten days thereafter has been given to the person placing the animal in custody by means of registered mail addressed to the last known address of the person*
or,
(2) *Having been placed in custody for an unspecified period of time, the animal is not removed within ten days after notice to remove the animal has been given to the person placing the*

[31] This law has broader application than just to dogs as it also concerns all domestic pets and domestic animals.

animal in custody by means of registered mail addressed to the last known address of the person. (1967, No. 240 (Adj. Sess.), § 1, eff. Feb. 8, 1968.)

Q: ***When does this law apply?***

S: The purpose of this law isn't to address strays, but rather those instances when an owner of a dog drops it off at the vet, kennel or some other establishment for board or care and doesn't return to pick it up. When that happens, the law imposes upon those establishments an obligation to notice the person to come get their dog and if they don't it can be given to a humane society, the town pound, humanely destroyed or even sold. If this happens the owner is still responsible for the costs of the treatment, board or care the establishment provided.

Q: What are a town's obligations when a vet, kennel etc. opts under this law to give an "abandoned" dog to the town pound?

S: None. Ostensibly, the town can dispose of the dog as it sees fit although the law is silent on this point. At this point notice would have already been provided by the establishment to the owner and the requisite ten days would have passed so the dog is now abandoned. The town should be able to dispose of it as it sees fit subject to whatever limitations, if any, that may be imposed by its animal/dog control ordinance. There is one potentially complicating factor for a town seeking to dispose of such a dog by humanely destroying it and that is the legislature's stated predilection for towns attempting to find adoptive homes for these animals. Compare the disposal of abandoned animals statute [20 V.S.A. § 3513] with those governing dogs towns impound as a result of conducting the dog census [20 V.S.A. §§ 3591, 3621, 3622]. Under both laws, towns may come into control of dogs by operation of law. Under both laws, towns may dispose of the dogs as they see fit. One noticeable difference is that the law governing disposal of dogs impounded following the dog census imposes a mandatory ten day (towns may increase this timeframe) waiting period for those towns opting for humane destruction. The purpose of this ten day period is for towns to at least attempt to find these dogs adoptive homes or transfer them to a humane society or rescue organization. The abandoned dog statute has no similar requirement, however it's important to note that this law hasn't been amended since its adoption in 1968 whereas the waiting period in 20 V.S.A. § 3621 was added in 2009. The same rationale exists for extending this reprieve to abandoned dogs. Not only will this additional ten-day waiting period most closely align towns' actions with legislative intent, but it will also provide administrative consistency for handling dogs that found themselves, through no fault of their own, all under the control and at the mercy of the town.

Q: What is the difference between an "abandoned" and a stray dog?

S: An "abandoned" dog is one that meets the definition of 20 V.S.A. § 3511 above. In contrast there is no state definition of a stray. A stray dog is one that may have been abandoned in the dictionary sense (forsaken) by its owner and is now homeless or it can be a dog running-at-large that lacks any identification as to who its owner is.

Q: What are the State laws governing stray dogs?

S: The laws governing stray dogs can be found in 20 V.S.A. §§ 3806, 3807. While not specifically geared to address the problem of strays in the state, these laws are self-executing

provisions enabling towns to impound dogs running-at-large (because strays have no home they are all running-at-large), instruct on how to provide notice of their impoundment when the owner is not known and how ultimately to dispose of such dogs when unclaimed. According to these sections, if a stray has been impounded, notification must be posted in the clerk's office and other usual places for public notice for one week (check your ordinance as it may require a longer period of notice), unless it is a rabies suspect in which case it must be managed in accordance with the rules of the Vermont Department of Health. The statute is silent as to the content of the notice. We recommend including in the notice any information that may help alert the owner, such as describing the breed, sex, apparent age, temperament, observed tendencies, any significant identifying marks, and when, where, and under what circumstances it was impounded. 20 V.S.A. § 3806(b). If nobody claims the dog the second provision, 20 V.S.A. § 3807, states that town "may immediately order the domestic pet or wolf-hybrid to be killed." Given the legislature's stated preference for adoption mentioned above we recommend utilizing the ten-day waiting period to attempt to find these dogs adoptive homes or transfer them to a humane society or rescue organization.

Q: ***A police officer found a dog that had been hit by a car and brought it to the local veterinarian. The veterinarian said the dog was suffering and should be put down, but will not do so without the officer's authorization. What should the officer do? Who is responsible for the veterinarian's expenses?***

S: If the dog is licensed and the identity of its owner can be ascertained we would strongly recommend contacting the owner so that they can consult with the veterinarian so that they can make this decision themselves. If the dog is a stray we would recommend the police officer following the professional advice of the veterinarian assessing the dog's medical condition. As for paying the bill, if the owner of the animal is known, then the owner would be contractually liable for the treatment furnished. Who is responsible for the bill when the dog is a stray is less certain. State law has no veterinarian reimbursement fund for the provision of care and treatment to stray dogs. Rather, some towns will set aside a set of money in the budget each year based upon expenditure forecasts and pay the bill simply because it's something everyone agrees should be done. Other towns have an actual contract with the veterinarian for services with this cost projection built into it. If your town does neither of these, odds are the town is still responsible for paying the bill based upon what is known as a quasi or implied contract theory based upon the act of the town placing the dog in the veterinarian's care. Beyond the legal implications, one practical consideration to keep in mind is that if the town doesn't pay the bill it may no longer have a relationship with that veterinarian.

POTPOURRI

Q: A resident has asked the town clerk if she would accept documentation of her dog's rabies titer test as a substitute for a rabies certificate in order to license his dog. Can she?

S: No. A rabies titers test measures the amount of disease fighting antibodies in a dog's blood at the time it is drawn to determine its degree of immunity to rabies. Neither the legislature by statute or the Vermont Department of Health by regulation have sanctioned towns to accept titer results as a substitute to a certificate or a certified copy from a duly licensed veterinarian that a dog has received a current preexposure rabies vaccination for purposes of licensure. The only

exception to a rabies certificate is a certificate of exemption from a duly licensed veterinarian in the State. The State Veterinarians both from Agriculture, Food and Markets and from the Vermont Department of Health have instructed clerks that they could issue licenses for un-inoculated dogs based on a certificate of exemption filled out by a licensed veterinarian. In the past, the Commissioner of the Vermont Department of Health adopted a rule stating that no vaccine is necessary if "in the judgment of the veterinarian, the animal's medical condition would prevent the development of adequate immunity to rabies."

Q: Dogs from a neighboring town are loose in our town. What can the selectboard do about it?

S: It can impound the dog for running at large as it does with resident dogs. Once those dogs enter the town it is subject to its regulatory authority. The legislature has enabled towns to adopt ordinances regulating the "leashing, muzzling, restraint, impoundment, and destruction of domestic pets or wolf-hybrids and their running at large." 20 V.S.A. § 3549. Towns that haven't adopted animal/dog control ordinances may still enforce self-executing provisions of state law. In particular, 20 V.S.A. § 3806 states that "[a]ny person authorized to enforce state livestock disease control, health, wildlife, or criminal laws…may confine, or impound any domestic pet or wolf-hybrid when: It has been running at large in violation of any of the provisions of this subchapter." These regulations apply both to residents of a town that own dogs as well as to dogs that find their way into town, including those that do so of their own volition.

Q: A resident has complained that her neighbor's dog came onto her property and attacked her dog. Does the selectboard have to hold a "vicious" dog hearing?

S: Only if its animal/dog control ordinance requires it to in instances when a dog attacks another domestic pet or animal, otherwise state law does not mandate that a hearing be held. Because the dog did commit the attack while on the neighbor's property this is at least evidence of the dog "running-at-large" under state law and, most likely, the town's ordinance. The town should follow its ordinance or state law with respect to enforcing against the dog owner.

Q: A person was bit while petting a dog sitting in the bed of a pick-up truck? The victim required medical attention and has filed a complaint with the selectboard. Does the selectboard have to hold a "vicious" dog hearing?

A: Yes, as the dog is technically "off the premises of the owner." 20 V.S.A. § 3546(a). The controlling statute requires that a selectboard conduct an investigation and hearing when a dog has "bitten a person while the domestic pet or animal or wolf-hybrid is off the premises of the owner or keeper, and the person bitten requires medical attention for the attack" and such person files a complaint with the selectboard. You'll note that the law refers to the owner or keeper's "premises", not "property". Legally there is a difference. Black's Law Dictionary defines "premises" as "(a) house or building, along with its grounds." This is different from the broader term "property" which is defined as "(a)ny external thing over which the rights of possession, use, and enjoyment are exercised." This distinction is important because while a car or truck is property it is not considered "premises" in the eyes of the law and therefore a dog in the bed of a pick-up truck is "off the premises of the owner" and a hearing would have to be held. Black's Law Dictionary (7th ed. 1999). You'll also notice that the legislature made no distinction between a dog that is "off the premises" of its owner and a dog that is running-at-large with

respect to dog bites. A dog therefore is "off the premises" of its owner when it is taken for a walk regardless of whether it is on or off a leash, under the owner's verbal command or in or outside the owner's vehicle. Whether or not the dog was running-at-large when it bit someone doesn't factor into the analysis of whether a "vicious" dog hearing must be held. The phrasing "off the premises of the owner" informs us as to the Legislature's intent behind this law: it was primarily concerned with how dogs behaved in public, not while on the private premises of their owners.

Q: A dog bit someone while the dog was on its owner's campsite. The victim has filed a complaint with the selectboard. Does a campground qualify as the "premises of the owner"?

S: Most likely the dog's owner is renting the campsite which means that he has a leasehold interest in the property regardless of duration of its term. This incident is then more closely aligned to a dog biting a trespasser. Consequently, the selectboard should consider the dog "on" the premises of its owner, not "off" and does not have to conduct a "vicious" dog hearing.

Q: A resident's dog bit someone while it was off the premises of its owner. The victim required medical attention and has filed a completed complaint with the selectboard. The dog's owner however has since moved to the neighboring town. Can/should/must the selectboard still hold a "vicious"dog hearing?

S: First contact the health officer, animal control officer and selectboard chair in the neighboring town and let them know what happened. I think the selectboard has three options: 1. Do nothing. Generally speaking government employees are shielded from exposure to personal tort liability under the doctrine of qualified official immunity when performing discretionary acts within the scope of their authority. In addition, municipalities themselves are generally shielded from liability for their negligent acts, so long as those acts occur while the municipality is acting in its "governmental" (as opposed to proprietary) capacity. Furthermore, generally speaking, absence a duty of care, an action in negligence will fail. A duty of care derives from the idea that is the party in control who is in the best position to protect against harm. Here the duty of care rests with the owner or keeper of the dogs, not the town as it is the owner who is responsible for properly restraining their dogs. Even if this individual was attacked by a dog that the town knew had a vicious disposition, an action in negligence will fail. Commenting on a town's failure to act when notified of such a propensity, the Vermont Supreme Court ruled that "'Despite the statute's general title, 'investigation of vicious dogs,' it deals specifically with investigation of dogs that bite rather than any general right to control dogs. In this case, defendants' ability to exercise control over dogs exists in narrowly circumscribed conditions and is statutory, not contractual, in nature...The town's right to control dogs that bite does not give rise to a generalized duty to control vicious dogs." Rubin v. Town of Poultney, 168 Vt. 624 (1998). 2. Does the town's ordinance define a vicious dog as one that bites a person without consideration as to whether it a bite occurs on or off the owner's property? If so, the town should move forward with a hearing, provide notice and an opportunity to be heard to the owner, and issue a protective order banning the dog from the town limits. 3. The selectboard and health officer could try issuing a health order to the owner preventing future public health hazards by banning the dog with an opportunity for a hearing after the fact. However, it is advisable to consult with the town attorney in this instance.

Q: Do foster dogs need to be licensed?

S: No. Fostering dogs is a way of having people provide dogs from an animal shelter [this word by statute includes within its definition duly incorporated humane societies, animal welfare societies, societies for the prevention of cruelty to animals and other similarly geared nonprofit organizations] who are not ready to be put up for adoption with temporary care. Reasons for fostering include dogs that are too young to be spayed or neutered; are nursing puppies; or are being treated for injuries or illnesses. Once the reason for fostering is over the dogs are returned to the shelter and put up for adoption. These dogs fall under the auspices of the animal shelter's certificate of registration granted by the Secretary for the Vermont Agency of Agriculture, Food and Markets and it is not until they are adopted and have an owner that state licensing requirements apply. 20 V.S.A. § 3903.

APPENDIX A

TOWN OF _____
VICIOUS DOG COMPLAINT FORM

[*Date*]

[*Town of*_____]
Attn: Selectboard Chair
[*Street Address*]
[*Town, VT, zip*]
[*Phone-Daytime-and/or e-mail*]

State law (20 V.S.A. § 3546) requires the selectboard to hold a vicious dog hearing when a domestic pet or wolf-hybrid has bitten a person while the animal is off the premises of its owner or keeper, the person bitten requires medical attention for the attack, and such person files a written complaint with the selectboard. The information submitted on this form will be used to determine whether such a hearing is warranted.

Person Reporting Attack: _____

Street Address: _____

Town, VT, ZIP: _____

The facts of the attack are as follows:

Date/Time: _____/_____

Place of Attack: _____

Did the Person Bitten Require Medical Attention? [circle one]: Y/N

Victim [name/address]:_____

_____

_____

Other facts that may assist the Selectboard in its investigation [e.g. name/address of owner of alleged suspected dog/description of suspected dog/circumstances leading to attack, etc.]:

_____
_____
_____
_____
_____

If you need additional space, please attach sheets to this form. Please submit this document and any supporting documentation to the address at the top of this form.

APPENDIX B

TOWN OF _____
RESPONSE TO VICIOUS DOG COMPLAINT

[*Date*]

[*Name of complainant*]
[*Street Address*]
[*Town, VT, zip*]

Dear_____:

On [*date*] the Town of _____ received a written vicious dog complaint from you (copy of complaint enclosed).

Your request for a hearing on this matter has been ☐ granted ☐ denied for the following reason(s) [*check all that are applicable*]:

- ☐ the attack did not require medical attention;
- ☐ the attack did not occur off the premises of the owner/keeper;
- ☐ the complaint is missing the following information:
  - ☐ whether the attack required medical attention;
  - ☐ the location of the attack;
  - ☐ the time and date of the attack;
  - ☐ the name and address of the victim(s);

If your complaint has been denied for failure to include the necessary information listed above: Please provide that information here and return this form to the address above:

_____

_____

If your request for a vicious dog hearing has been granted as indicated above:
Pursuant to Title 20, Section 3546 of Vermont law, the selectboard is required to hold a hearing on this matter. You are hereby given notice that the Town of_____Selectboard will conduct this hearing on [*date*] at [*time*] in [*location*] in _____, Vermont at which time it will take evidence to determine the veracity of the complaint, whether the victim was bitten without provocation and if necessary make such order for the protection of persons as the facts and circumstances may require. Your participation is not required, however, it is suggested to ensure the selectboard receives all the relevant and credible information to inform its decision.

Sincerely,

[*Name*]
Selectboard, Chair
Town of _____

APPENDIX C

TOWN OF _____
NOTICE OF PUBLIC HEARING

Re: Vicious Dog / Public Nuisance Complaint
Dog owned by _____

The Selectboard of the Town of _____, Vermont, will hold a Public Hearing pursuant to 20 V.S.A. § 3546 on [*day/month/year*] at [*time*] in [*location*] in _____, Vermont to hear evidence and receive testimony on a complaint of a "vicious dog" concerning a dog named [*name of dog*] owned by [*name of owners]* presently residing at [*address*] in _____, Vermont.

APPENDIX D

TOWN OF _____
NOTICE TO OWNER OF VICIOUS DOG HEARING

[*Date*]

[*Name of dog owner*]
[*Street Address*]
[*Town, VT, zip*]

Dear_____:

On [*date*] the Town of _____ received a written complaint (enclosed) that your dog [*name of dog-if known*] bit a person while it was off of your property. Pursuant to Title 20, Section 3546 of Vermont law, the selectboard is required to hold a hearing on this matter. You are hereby given notice that the Town of_____Selectboard will conduct this hearing on [date] at [time] in [location] in _____, Vermont, at which time it will take evidence to determine the veracity of the complaint, whether the victim was bitten without provocation and if necessary make such order for the protection of persons as the facts and circumstances may require. Your participation is not required, however, it is suggested to ensure the selectboard receives all the relevant and credible information to inform its decision.

Sincerely,

[*Name*]
Selectboard, Chair
Town of _____

APPENDIX E

VLCT MODEL RULES OF PROCEDURE FOR SELECTBOARD VICIOUS DOG/WOLF-HYBRID HEARINGS

A. PURPOSE. The Selectboard of the Town of _____ is required by 20 V.S.A. § 3546 to conduct a hearing when a domestic pet or wolf-hybrid has bitten a person while the domestic pet or wolf-hybrid is off the premises of the owner or keeper, the person bitten requires medical attention for the attack, and the person bitten has filed a written complaint with the Selectboard. The purpose of these rules is to establish uniform procedures for conducting such vicious domestic pet or wolf-hybrid hearings and to ensure compliance with Vermont's Open Meeting Law.

B. APPLICATION. These rules of procedure shall apply to all vicious domestic pet or wolf-hybrid hearings conducted by the Town of _____ Selectboard. A copy of these rules shall be provided to each party bringing a complaint before the Selectboard. The Selectboard Chair shall conduct the hearing in the following manner:

C. PROCEDURE.

1. The chair of the Selectboard, or in the chair's absence, the vice-chair, shall chair all vicious domestic pet or wolf-hybrid hearings. If both the chair and the vice-chair are absent, a member selected by a quorum of the Selectboard shall chair the hearing. The chair may make motions and may vote on all questions before the Selectboard. The chair shall rule on all questions or order and procedure.

2. The chair may exclude any irrelevant, unreliable or unnecessarily repetitive evidence. Relevant evidence is any verbal testimony or document that tends to demonstrate the innocence or guilt of the domestic pet or wolf-hybrid subject to complaint. Reliable evidence is any relevant evidence commonly relied upon by reasonably prudent people in the conduct of their affairs.

3. All vicious domestic pet or wolf-hybrid hearings shall be conducted in the following sequence:

a. Open the hearing by reading the warning/notice of the hearing.

b. Read the complaint received, and remind all present that this hearing is mandated by State law [20 V.S.A. § 3546], will be conducted in an orderly manner and that all statements must be directed to the Chair.

c. Ask the complainant/respondent if he/she has received a copy of these rules of procedure and whether he/she has any questions about how the hearing will proceed.

d. Request disclosure of any conflicts of interest and/or *ex parte* communications.

e. Direct the complainant or his/her representative and all others providing evidence thereafter to step forward and take the following oath:

> *I hereby solemnly swear (or affirm) that the evidence I give in the cause under consideration shall be the whole truth and nothing but the truth.*

f. Accept written information from the complainant presented to the Selectboard.

g. Invite the complainant to present oral testimony to the Selectboard.

h. Invite Selectboard members to ask questions of the complainant.

i. Invite the domestic pet or wolf-hybrid's owner (respondent) or representative to respond to evidence presented.

j. Invite Selectboard members to ask questions of the domestic pet or wolf-hybrid owner.

k. Invite members of the public to present any relevant information regarding the complaint.

l. Invite more questions or comments from members of the Selectboard.

m. Allow final comments or questions from the complainant and domestic pet or wolf-hybrid's owner or their representatives or members of the Selectboard.

n. Upon motion and majority approval, the Chair shall either adjourn the hearing to a time and date certain (e.g. to obtain additional evidence), or close the proceedings by stating that this is the final public hearing on the matter.

o. The Selectboard shall then conduct public deliberations, or may vote to enter deliberative session in which case the written decision of the Selectboard setting forth its findings of facts, conclusion of law and order for the domestic pet or wolf-hybrid will be rendered in writing to the owner of the domestic pet or wolf-hybrid by certified mail, return receipt requested within ___ days.

These rules may be amended by [unanimous/two thirds/majority] vote of the Selectboard.

Adopted by the _____ Selectboard at its organizational meeting held _____, 201_.

_____
Chair
Selectboard

APPENDIX F

VICIOUS DOG HEARING DECISION/PROTECTIVE ORDER
Town of _____ Selectboard

In re: [*name of dog*]

INTRODUCTION AND PROCEDURAL HISTORY

1. This proceeding involves a vicious dog complaint submitted by [*name of complainant*] and received by the selectboard on [*date of receipt of complaint*].

2. On [*month/day, 201_*], public notice of this vicious dog hearing was posted in or near the town clerk's office and [*two other places in town where notice was posted*], to each selectboard member, and [*list any editor, publisher, or news director of any newspaper or radio or television station serving the area that requests notification of special meetings provided notice*].

3. On [*month/day, 201_*], notice of this vicious dog hearing was mailed to [*name of dog owner*], owner/keeper of [*name of dog*].

4. On [*month/day, 201_*], notice of this vicious dog hearing was mailed to [*name of complainant*].

5. Present at the hearing were the following members of the selectboard:

- _____
- _____
- _____
- _____
- _____

6. During the course of the hearing the following exhibits were submitted to the selectboard: [*list any written testimony, pictures, reports, etc. submitted by any party before or during the hearing*]:

- _____
- _____
- _____
- _____
- _____

RELEVANT ORAL TESTIMONY

(attach additional sheets if necessary)

FINDINGS OF FACT

(attach additional sheets if necessary)

CONCLUSIONS OF LAW

(attach additional sheets if necessary)

DECISION

Based on the foregoing findings of fact and conclusions of law the selectboard finds that [*name of dog*] ***did/did not*** bite [*name of victim*] ***with/without*** provocation and therefore a protective order ***will/will not*** be rendered. (*Circle all that apply*).

PROTECTIVE ORDER

Only applicable if the selectboard decides the dog bit the victim without provocation. Check all that apply.

☐ Based on the foregoing facts and circumstances, and pursuant to 20 V.S.A. § 3546(c), the selectboard hereby orders that the domestic pet or wolf-hybrid named _____ and owned by _____is to be (*check all that apply*):

☐ **Muzzled**: (*where/when:* _____);
☐ **Chained**: (*where/when:* _____);
☐ **Confined**: (*where/when::* _____);
☐ **Spayed/neutered** (*no later than:* _____);
☐ **Transferred** to an animal shelter or rescue organization for the purpose of finding an adoptive home;
☐ **Disposed of in a humane way**: (*no later than*: _____);
☐ **Other**:_____
_____
_____

☐ Based on the foregoing facts and circumstances, and pursuant to 20 V.S.A. § 3546(c), the selectboard hereby orders that [*name of owner*]:

_____
_____
_____

Until such time as completion of the conditions set forth in this order can be satisfactorily verified [*name of dog*] shall be released to [*name of owner/keeper*]/[*name of detention facility*] with all associated costs being the responsibility of the owner/keeper.

Failure to comply fully with the conditions set forth in this order shall subject the owner/keeper to the penalties provided for in Title 20 Section 3546.

This decision/order was approved by the _____ Selectboard on [*month/day*], 201_.

_____
Selectboard Chair

NOTICE: This decision may be appealed to the Vermont Superior Court Civil Division within 30 days of the date of this decision, pursuant to Rule 75(c) of the Vermont Rules of Civil Procedure.

APPENDIX G

TOWN OF _____
NOTICE OF STRAY DOG IMPOUNDMENT
(To be posted in the town clerk's office and other usual places for public notice for a one-week period)

On [*month/day/year*] at approximately [*time of impoundment*], the Town of _____, Vermont impounded a dog meeting the following description:

- [*breed*];
- [*sex*];
- [*approximate age*];
- [*approximate weight*];
- [*color*];
- [*physical description*];
- [*any identifying marks/collars/tags/etc.*];
- [*temperament or any other helpful descriptive information*].

The dog was found running-at-large at [*location where dog was found*]. The dog is currently being held at [*name of facility where dog is being held*]. If you are the owner/keeper of a dog meeting this description or know someone who may be, please contact [*contact person*] at [*phone number and e-mail address of contact person*] or visit the [*name and address of facility where dog is being held*] between the hours of [*hours of operation of the facility*] in order to take whatever remedial action pursuant to the Town of _____, Vermont [*name of ordinance*] that may first need to be taken prior to the dog's release.

If the owner/keeper does not come forward or is unable or unwilling to take whatever remedial action may be necessary to secure the dog's release within ten (10) days following the date of this notice 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. If the dog cannot be so transferred it may be humanely destroyed.

APPENDIX H
VLCT MODEL DOGS
[AND WOLF-HYBRIDS] ORDINANCE

SECTION 1. AUTHORITY. This ordinance is adopted by the selectboard of the Town of _____ under 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. It is the purpose of this ordinance to regulate the keeping of dogs [and wolf hybrids] and to provide for their leashing, muzzling, restraint, impoundment and destruction and their running at large, so as 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" and "working farm dogs" except where specifically exempted.

B. "Enforcement Officer" means any Town Constable, Police Officer, Animal Control Officer, Humane 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. The term also includes those persons who provide food and shelter to a dog.

D. "Potentially vicious dog" means a dog running at large 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. 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.

E. "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.

F. "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.

G. "Working farm dog" means a dog that is bred or trained to herd or protect livestock or poultry or to protect crops and that is used for those purposes and that is registered as a working farm dog pursuant to State law.

SECTION 4. NUISANCES. An owner of a dog shall not allow, permit, or suffer such dog to create a nuisance. The following activities shall be deemed nuisances:

A. Running at large in the Town.

B. 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.

C. A female dog in heat not confined to a building or other secured enclosure, except while under the direct control of the owner.

D. A dog that disturbs the quiet, comfort and repose of others by barking, whining, calling, or howling for a continuous period of _____ minutes or more. This regulation shall not apply to dogs in a kennel/boarding facility which has received a zoning permit under the Town's Zoning Regulations. The zoning permit will govern the use of the kennel / boarding facility.

E. The provisions of this section pertaining to running at large and disturbing the quiet, comfort and repose of others shall not apply to working farm dogs if:
   1. the working farm dog is barking in order to herd or protect livestock or poultry or to protect crops; or
   2. the working farm dog is running at large in order to herd or protect livestock or poultry or to protect crops.

SECTION 5. COLLAR AND LICENSE. Each dog shall be licensed according to the laws of this State and shall wear a collar or harness with the current license attached. A dog that is visiting from out of state must wear a collar or harness with a current license from its home state attached. A dog that is found without a collar or harness and license shall be immediately impounded.

SECTION 6. ENFORCEMENT.[32] The violation of this ordinance shall be a civil matter which may be enforced in the Vermont Judicial Bureau or in the _____ County Superior Court, at the election of _____.

[32] Local officials should be aware that while enforcement of a municipal civil ordinance falls under the jurisdiction of the Vermont Judicial Bureau, penalties that escalate beyond $800 must be pursued in Superior Court. 24 V.S.A. § 1974a (b). Municipalities may want to pursue more severe penalties beyond fines, such as neutering/spaying and impoundment of a violator's dog(s). However, the Judicial Bureau does not have the legal authority to order a violator alter their dog or impound them. This is called "injunctive relief," and in Vermont, only the Superior Court has this power. The exception to this rule is that the Judicial Bureau can "order that a civil ordinance violation cease." 24 V.S.A. § 1974a (c). Therefore, when penalties exceed $800, or when the municipality desires additional relief, the case must be brought in Superior Court. 24 V.S.A. § 1974a (b).

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, [the constable/ police/animal control officer/humane officer] shall be the designated enforcement officer(s). The enforcement officer shall issue tickets and may be the appearing officer at any hearing.

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

SECTION 7. PENALTIES AND COSTS.

A.	First offense	$50.00 full penalty/$25.00 waiver penalty.
B.	Second offense	$100.00 full penalty/$50.00 waiver penalty.
C.	Third offense	Impoundment & impoundment costs, any remedial action as required by the enforcement officer, plus $150.00 full penalty/$75.00 waiver penalty.
D.	Subsequent offenses	Impoundment & impoundment costs, any remedial action as required by the enforcement officer, plus $200.00 full penalty/$100.00 waiver penalty.

E. For purposes of determining the sequence of offenses, second and third offenses shall be those that occur within the 12-month period of the anniversary day of the first offense. Any offense occurring after this 12-month period shall be considered a new first offense.
F. Any owner whose dog has been impounded for its initial third offense shall provide the selectboard with proof of satisfactory completion of a responsible dog owner training course pre-approved by the selectboard within 6 months of the anniversary date of impoundment. Failure to provide such certification may result in forfeiture of the offending animal.
G. For purposes of calculating the sequence of offenses, offenses shall be counted against the owner.
H. Impoundment costs and pre-approved responsible owner training programs shall be set annually by the selectboard.

SECTION 8. IMPOUNDMENT.

A. Any dog that is determined by a [constable/police officer/animal control officer/humane officer] to be a potentially vicious dog, which presents an imminent danger to people or other animals, has reportedly bitten a person off [*or on*][33] the premises of its owner, or is in violation of State licensing law or 20 V.S.A. § 3806 may be immediately impounded.
B. A person claiming a dog is a "potentially vicious dog" may file a written complaint with the selectboard. 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 selectboard in conducting its hearing.

[33] This ordinance gives a selectboard the option of whether they want to conduct vicious dog hearings for bites that occur ***on*** the premises of the dog's owner. Presently under state law, a selectboard is only obligated, and may only hold a vicious dog hearing when the bite occurs ***off*** the owner's premises. Choosing this option enables a selectboard to hold such a hearing in both instances. Before making your decision, please be aware that according to the Dog Bite Law Center approximately 70% of all dog bites occur on the owner's property which means electing this option may result in a marked increase in vicious dog hearings.

C. 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 absent the dog being humanely destroyed.

SECTION 9. NOTICE OF IMPOUNDMENT AND RELEASE FROM IMPOUNDMENT.

A. 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 written notice at the owner's dwelling. Such notice shall inform the owner of the nature of the violations, the location of the dog and the steps that are necessary to have it returned to the owner.

B. 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) day period.[34] The public notice shall include a description of the dog, including any significant marks of identification, when and where it was impounded or found by the person placing the dog in the town's custody, and declare that unless the owner claims the dog and pays all expenses incurred by the town for treatment, boarding and care of the dog, any applicable penalties and takes all necessary remedial action within ten (10) days following posting, the town may place the dog in an adoptive home, 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.

C. 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, and verification of certification of current vaccination against rabies.

D. 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, 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

[34] Although state law only requires public notice for a one-week period for an impounded stray dog, the potential reasons for impoundment under this ordinance are broader than those under 20 V.S.A. § 3806. Furthermore, even though the VT Supreme Court has held that "(t)he qualified right to possession of dogs and other animals, and the strong public interest in assuring their permanent placement in a suitable environment, amply supports the town's decision to provide for the sale or transfer of impounded dogs if unclaimed after seven days..." Lamare v. North Country Animal League, 170 Vt. 115 at 123 (1999) the Court in that case mostly looked to other jurisdictions around the country for guidance as to appropriate notice periods as Vermont law was up until that time largely silent. Considering that the VT Legislature, in amending 20 V.S.A. § 3621, imposed a ten-day period to attempt to transfer to animal shelters or rescue organization dogs impounded following a selectboard's grant of a warrant for all unlicensed dogs, we would recommend following this longer ten day timeframe.

the dog for the duration of its impoundment and any expenses associated with its transfer or humane disposal.

E. The procedures provided in this section shall only apply if the dog is not a rabies suspect. If an official designated by the selectboard to enforce the provisions of this ordinance 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 10. INVESTIGATION OF VICIOUS DOGS.

A. When a dog has bitten a person while the dog is off [or *on*][35] the premises of its owner or keeper, and the person bitten requires medical attention for the attack, such person may file a written complaint with the selectboard of the municipality. 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 (7) 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, date and place of hearing and a copy 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 disposed of in a humane way, muzzled, chained, or confined. 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.

---

[35] This ordinance gives municipalities the option of conducting "vicious" dog hearings for bites that occur *ON* the premises of the owner and in other instances in which a dog is suspected of being a "potentially vicious dog." Those municipalities availing themselves of this option should be aware that doing so is not without a risk of increased liability exposure. The reason the Town of Poultney escaped liability in *Rubin v. Town of Poultney*, 168 Vt. 624 (1998) was because the Town had not assumed a duty of care beyond that provided by statute. "In this case, defendants' ability to exercise control over dogs exists in narrowly circumscribed conditions and is statutory, not contractual, in nature. ... The town's right to control dogs that bite does not give rise to a generalized duty to control vicious dogs." *Rubin v. Town of Poultney*, 168 Vt. 624 (1998). In utilizing this process when not mandated by statute to do so municipalities are representing that they will undertake a duty of care that they are not otherwise obligated to conduct. Breach of this duty of care could result in a claim of negligence. Accordingly, municipalities instituting these options should be sure to hold a hearing when a complaint is received and adhere to the processes laid out for "vicious" dog hearings including rendering a protective order if found in violation. Furthermore, a municipality undertaking these additional responsibilities should anticipate an associated increase in administrative and enforcement costs related to compliance. Both these factors must be weighed against the projected benefits of addressing these issues before they become a problem.

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 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 11. OTHER LAWS. This ordinance is in addition to all other ordinances of the Town of _____ 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 _____ selectboard. If a petition is filed under 24 V.S.A. § 1973, that statute shall govern the taking effect of this ordinance.

Adopted this _____ day of _____, 201_.

_____ _____
DATE

_____

_____

SIGNATURES

Adoption History

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

APPENDIX I

MUNICIPAL DOG AND WOLF-HYBRID LICENSES AND FEES

Vermont League of Cities and Towns
89 Main Street, Suite 4
Montpelier, Vermont 05602-2948
(802) 229-9111, info@vlct.org, www.vlct.org

20 V.S.A. §§ 3541-3591, 3681-3684, 3801-3817

The municipal clerk shall issue licenses and receive money for them. 20 V.S.A. § 3588. A person must annually license his or her dog on or before April 1.

A MUNICIPALITY MAY LEVY A SURCHARGE, NOT TO EXCEED $10.00, TO ENFORCE ITS ANIMAL AND RABIES CONTROL PROGRAM. (20 V.S.A. § 3581(c)(2)) (This is an optional surcharge determined by each individual municipality.)

	Basic License Fee		State of Vermont Rabies Control Programs 20 V.S.A. § 3581(f)		State of Vermont Spay/Neuter Program 20 V.S.A. § 3581(c)(1)		Minimum Required Charge
If you own or keep a **neutered or spayed dog or wolf-hybrid that is six months or older on or before April 1**, the license fee, according to 20 V.S.A. § 3581, is:							
On or Before April 1	$4.00	+	$1.00	+	$3.00	=	$8.00
After April 1	$6.00	+	$1.00	+	$3.00	=	$10.00
If you own or keep an **unneutered or unspayed dog or wolf-hybrid that is six months or older on or before April 1**, the license fee, according to 20 V.S.A. § 3581, is:							
On or Before April 1	$8.00	+	$1.00	+	$3.00	=	$12.00
After April 1	$12.00	+	$1.00	+	$3.00	=	$16.00

If you **become an owner/keeper of a neutered or spayed dog or wolf-hybrid that is six months of age or older after April 1, you have 30 days to license the animal.** The license fee, according to 20 V.S.A. § 3582, is:

On or Before October 1	$4.00	+	$1.00	+	$3.00	=	$8.00
After October 1	$2.00	+	$1.00	+	$3.00	=	$6.00

If you **become an owner/keeper of an unneutered or unspayed dog or wolf-hybrid that is six months of age or older after April 1, you have 30 days to license the animal.** The license fee, according to 20 V.S.A. § 3582, is:

On or Before October 1	$8.00	+	$1.00	+	$3.00	=	$12.00
After October 1	$4.00	+	$1.00	+	$3.00	=	$8.00

If the owner **waits more than 30 days after the neutered or spayed dog or wolf-hybrid becomes six months old,** the license fee, according to 20 V.S.A. § 3582, is:

On or Before October 1	$6.00	+	$1.00	+	$3.00	=	$10.00
After October 1	$3.00	+	$1.00	+	$3.00	=	$7.00

If the owner waits **more than 30 days after the unneutered or unspayed dog or wolf-hybrid becomes six months old,** the license fee, according to 20 V.S.A. § 3582, is:

On or Before October 1	$12.00	+	$1.00	+	$3.00	=	$16.00
After October 1	$6.00	+	$1.00	+	$3.00	=	$10.00

- To register a dog or wolf-hybrid as a neutered male or spayed female, a certificate, signed by a licensed veterinarian stating the animal has been sterilized, must be shown to the clerk. 20 V.S.A. § 3581(b).

- To license a dog or wolf-hybrid, the owner/keeper shall give the municipal clerk a certificate (or certified copy) signed by a licensed veterinarian stating the dog or wolf-hybrid has a current approved vaccination against rabies. The owner shall certify that the dog or wolf-hybrid being licensed is the animal that was vaccinated. The municipal clerk shall keep the certificate (or copy) on file. 20 V.S.A. § 3581(d).

A current vaccination against rabies means that:

- All dog and wolf-hybrid vaccinations recognized by state and local authorities shall be administered by or under the supervision of a licensed veterinarian.

- All dogs and wolf-hybrids over three months of age shall be vaccinated against rabies. The initial vaccination shall be valid for 12 months. Within 9 to 12 months of the initial vaccination, the animal must receive a booster vaccination.
- All subsequent vaccinations following the initial vaccination shall be valid for 36 months. All vaccinations, including the initial vaccination, shall be with a U.S. Department of Agriculture-approved three-year rabies vaccine product. 20 V.S.A. § 3581(e).

	Breeding [or Special] License	Pet Dealer Permit (20 V.S.A. § 3681)
On or Before April 1	$30.00 for the first ten dogs or wolf-hybrids; $3.00 for each additional dog or wolf-hybrid (20 V.S.A. § 3583(a)(3))	$25.00
After April 1	$45.00 for the first ten dogs or wolf-hybrids; $4.50 for each additional dog or wolf-hybrid (20 V.S.A. § 3583(c))	$37.50

Breeding Licenses:
The owner/keeper of dogs or wolf-hybrids kept for breeding purposes may get a breeding [or special] license for such animals on or before April 1 if the animals are kept in a proper enclosure. A current rabies vaccination is also required for each dog or wolf-hybrid. Such licensed dogs or wolf-hybrids are exempt from other license fees and any town surcharge. However, each breeding license issued is subject to the $1.00 state fee for state rabies control programs. 20 V.S.A. §§ 3583, 3581(f).
NOTE: Breeders of cats and ferrets may also apply for a breeding license for their operations.

Pet Dealers:
A pet dealer is any person (excluding pet shops, animal shelters, or rescue organizations) who sells or exchanges or who offers to sell or exchange cats, dogs, or wolf-hybrids, or any combination thereof, from three or more litters of cats, dogs, or wolf-hybrids in any 12-month period. A pet dealer shall apply to the municipal clerk of the town or city in which cats, dogs, or wolf-hybrids are kept for a pet dealer permit. The permit shall expire on March 31 of every year. The permit must be displayed prominently on the premises where the cats, dogs, or wolf-hybrids are kept. The pet dealer permit does not exempt the dogs or wolf-hybrids from any other required license(s). The clerk must distribute a copy of Part 3 of the Animal Welfare Regulations adopted by the Agency of Agriculture, Food and Markets, contact information for the Animal Health Section, and information about sales tax obligations to the pet dealer. He or she must also maintain a record of the types of animals being kept by the permit holder. 20 V.S.A. § 3681.

Working Farm Dog License:
A person who owns a working farm dog and intends to use it on a farm pursuant to 20 V.S.A. § 3549 must get a working farm dog license by paying $5.00 in addition to other fees required by law. "Working farm dog" means a dog that is bred or trained to herd or protect livestock or poultry or to protect crops and that is used for those purposes and that is registered as a working farm dog. 20 V.S.A. §3581(a). Municipalities shall not prohibit or regulate the barking or running at large of a working farm dog when it is on the property being farmed by the person who registered the working farm dog if the working farm dog is barking and/or running at large in order to herd or protect livestock, poultry or crops.

OTHER LICENSING REQUIREMENTS

- A person may bring a licensed dog(s) bearing the identification of the owner into Vermont for a period not to exceed 90 days, provided the owner has a valid certificate of rabies vaccination. The certificate shall state that the dog(s) rabies vaccination is current for the 90 days following entry into Vermont. 20 V.S.A. § 3587.

- The municipal clerk shall pay the license fee money into the town treasury within 60 days of receipt and give a sworn statement as to the amount of money received and paid over by him or her. The municipal clerk retains $2.00 for his or her own use for each license or permit he or she issues. 20 V.S.A. § 3588.

- The municipal clerk shall keep a record of licenses he or she issues, with the names of the owners/keepers of the dogs or wolf-hybrids licensed and the names, registered numbers and descriptions of such dogs or wolf-hybrids. 20 V.S.A. § 3589.

- A license from a municipal clerk shall be valid in any part of the state and may be transferred with the dog or wolf-hybrid, provided the license is recorded by the municipal clerk where the dog or wolf-hybrid is currently being kept. 20 V.S.A. § 3591.

- A municipality may waive the license fee for a dog or wolf-hybrid impounded, pursuant to subsection (a) of § 3621, for the current year upon showing current vaccinations and financial hardship. In the event of waiver due to financial hardship, the state shall not receive its portion of a dog license fee. 20 V.S.A. § 3621 (b).

List of Dogs:
Each year the selectboard shall designate a person(s) to make and maintain a list of unlicensed, inoculated and licensed dogs and wolf-hybrids in its town and to submit such list to the municipal clerk. 20 V.S.A. § 3590(a).

The municipal clerk shall notify the owners/keepers of dogs or wolf-hybrids on the list that have not been licensed or inoculated and, after May 30 of each year, give such list to the selectboard. Owners shall also be notified that unlicensed or uninoculated dogs or wolf-hybrids may be impounded for at least ten days, after which they may be humanely destroyed. 20 V.S.A. §§ 3590 (b), 3621 (a).

A PERSON WHO FAILS TO LICENSE A DOG OR WOLF-HYBRID IN THE REQUIRED MANNER MAY BE FINED UP TO $500.00. 20 V.S.A. § 3550(a).

© 2014 Vermont League of Cities and Towns

APPENDIX J
HELPFUL CONTACT INFORMATION

VERMONT STATE VETERINARIAN:
Dr. Kristin Haas
Vermont Agency of Agriculture
Division of Food Safety and Consumer Protection
Director/State Veterinarian
Phone: 828-2426
E-mail: kristin.haas@state.vt.us
Website: http://healthvermont.gov

VERMONT DEPARTMENT OF HEALTH:
108 Cherry Street
Burlington, VT 05402
Phone: 1-800-464-4343
Fax: 865-7754
Website: http://healthvermont.gov/local/tho/tho.aspx#resources

Rabies Hotline:
Phone: 1-800-472-2437 (1-800-4-RABIES)
Website: http://healthvermont.gov/prevent/rabies/Rabies.aspx

VERMONT COUNTY SHERIFFS' DEPARTMENTS (ALPHABETICAL BY COUNTY):
Source: Vermont Criminal Justice Training Council
Website: http://vcjtc.vermont.gov/contact_info

Addison Co. Sheriff's Office
Sheriff Donald Keeler
35 Court Street
Middlebury, VT 05753
388-2981
388-2249 (fax)

Bennington Co. Sheriff's Office
Chad Schmidt, Sheriff
P.O. Box 4207
Bennington, VT 05201
442-4900
442-7282 (fax)

Caledonia Co. Sheriff's Office
Dean Shatney, Sheriff
1126 Main Street Suite 2
St. Johnsbury VT 05819
748-6666
748-1684 (fax)

VERMONT COUNTY SHERIFFS' DEPARTMENTS (ALPHABETICAL BY COUNTY): (continued)
Source: Vermont Criminal Justice Training Council
Website: http://vcjtc.vermont.gov/contact_info

Chittenden Co. Sheriff's Office
Kevin M. McLaughlin, Sheriff
P.O. Box 1426
Burlington, VT 05402-1426
863-4341
863-7445 (fax)

Essex Co. Sheriff's Office
Trevor Colby, Sheriff
91 Courthouse Drive
Guildhall, VT 05905
676-3500
676-3400 (fax)

Franklin Co. Sheriff's Office
Robert W. Norris, Sheriff
P.O. Box 367
St. Albans, VT 05478-0367
524-2121
524-7947 (fax)

Grand Isle County Sheriff's Office
Ray Allen, Sheriff
P.O. Box 168
North Hero, VT 05474
372-4482
372-5771 (fax)

Lamoille Co. Sheriff's Office
Roger Marcoux, Sheriff
P.O. Box 96
Hyde Park, VT 05655-0096
888-3502
888-2562 (fax)

Orange Co. Sheriff's Office
Bill Bohnyak, Sheriff
11 VT RT 113
Chelsea, VT 05038
685-4875
685-3204 (fax)

VERMONT COUNTY SHERIFFS' DEPARTMENTS (ALPHABETICAL BY COUNTY): (continued)
Source: Vermont Criminal Justice Training Council
Website: http://vcjtc.vermont.gov/contact_info

Orleans Co. Sheriff's Office
Kirk J. Martin, Sheriff
5578 US Route 5
Derby, VT
Mailing:
P.O. Box 355
Newport, VT 05855
334-3333
334-3307 (fax)

Rutland Co. Sheriff's Office
Stephen P. Benard, Sheriff
P.O. Box 303
Rutland, VT 05702-0303
775-8002
775-1794 (fax)

Washington Co. Sheriff's Office
W. Sam Hill, Sheriff
P.O. Box 678
Montpelier, VT 05601-0678
223-3001
828-3611 (fax)

Windham Co. Sheriff's Office
Keith Clark, Sheriff
P.O. Box 266
Newfane, VT 05345-0266
365-4949
365-4945 (fax)

Windsor Co. Sheriff's Office
D. Michael Chamberlain, Sheriff
P.O. Box 478
62 Pleasant Street
Woodstock, VT 05091
457-5211
457-5215 (fax)

VERMONT STATE POLICE BARRACKS
(BY TROOP):
(Source: Vermont State Police, Department of Public Safety)
Website: http://vsp.vermont.gov/about_us/divisions/field_force/stations

Troop A:

St. Albans Barracks
P.O. Box 809
St. Albans, VT 05478
Voice: 524-5993
Fax: 527-1150

Williston Barracks
2777 St. George Road
Williston, VT 05495
Voice: 878-7111
Fax: 878-2742

Middlesex Barracks
1080 US Route 2
Middlesex, VT 05602
Voice: 229-9191
Fax: 229-2648

Troop B:

Derby Barracks
35 Crawford Road
P.O. Box 410
Derby, VT 05829
Voice: 334-8881
Fax: 334-4740

Bradford Barracks
1594 Waits River Road
Bradford, VT 05033-9716
Voice: 222-4680
Fax: 222-4028

St. Johnsbury Barracks
1068 US Route 5
Suite #1
St. Johnsbury, VT 05819
Voice: 748-3111
Fax: 748-1585

Troop C:

New Haven Barracks
P.O. Box 83
New Haven, VT 05742
Voice: 388-4919
Fax: 388-1420

Rutland Barracks
124 State Place
Rutland, VT 05701-9332
Voice: 773-9101
Fax: 775-6968

Shaftsbury Barracks
P.O. Box 215
Shaftsbury, VT 05262
Voice: 442-5421
Fax: 422-3263

Troop D:

Royalton Barracks
2011 VT Route 107
Bethel, VT 05032
Voice: 234-9933
Fax: 234-6520

Rockingham Barracks
1987 Rockingham Road
Chester, VT 05143
Voice: 875-2112
Fax: 875-2176

Brattleboro Barracks
464 Marlboro Road
Brattleboro, VT 05301
Voice: 254-2382
Fax: 257-7951

ANIMAL SHELTERS AND HUMANE SOCIETIES (ALPHABETICAL): (continued)
(Source: Central Vermont Humane Society)
Website: http://cvhumane.com/vermont-pets/

Frontier Animal Society
4473 Barton-Orleans Road
Orleans, VT 05860
754-2228
www.frontieranimalsociety.com

Green Mountain Animal Defenders
P.O. Box 4577
Burlington, VT 05402
878-2230

Humane Society of Chittenden County
142 Kindness Court
South Burlington, VT 05403
860-5867
860-5868 (fax)
www.chittendenhumane.org

Lucy Mackenzie Humane Society
P.O. Box 343
Woodstock, VT 05091
457-3080
457-1401 (fax)
www.woodstockpets.org

Morse Rescue Farm
270 Parker Road
E. Wallingford, VT 05742
259-2272
259-2350

North Country Animal League
3524 Laporte Road
Morrisville, VT 05661
888-5065
888-4408 (fax)
www.ncal.com

Rutland County Humane Society
765 Stevens Road
Pittsford, VT 05763
483-6700
483-6342 (fax)
www.rchsvt.com

ANIMAL SHELTERS AND HUMANE SOCIETIES (ALPHABETICAL): (continued)
(Source: Central Vermont Humane Society)
Website: http://cvhumane.com/vermont-pets/

Second Chance Animal Center
P.O. Box 620
Shaftsbury, VT 05262
375-0249
375-0235 (fax)
www.2ndchanceanimalcenter.org

All-Breed Rescue Groups:

Good Karma Rescue
goodkarmarescue.rescuegroups.org
goodkarmarescue@gmail.com

Springfield Humane Society
P.O. Box 398
Springfield, VT 05156
885-3997
885-6970 (fax)
www.springfieldvthumanesociety.org

The Animal Rescue and Protection Society
P.O. Box 274
Chester, VT 05143
875-7777
info@tarps-vt.org

Vermont Volunteer Services for Animals
P.O. Box 100
Bridgewater, VT 05034
672-5302
672-5303 (fax)

Windham County Humane Society
P.O. Box 397 (916 West River Road)
Brattleboro, VT 05302
254-2232
254-3680 (fax)
www.wchs4pets.org

Random Rescue
Randomrescue.org
433-5912
254-3680 (fax)
randomrescue@gmail.org

VERMONT HUMANE FEDERATION
Website: http://www.vermonthumane.org/

VERMONT ANIMAL CONTROL ASSOCIATION (VACA)
Website: https://www.facebook.com/VermontAnimalControl

VERMONT ANIMAL CRUELTY TASK FORCE
Website: http://www.vactf.org/

Joanne Bourbeau
E-mail: info@vactf.org
Phone: 368-2790

The Vermont Animal Cruelty Task Force
c/o The Humane Society of the United States
New England Regional Office
P.O. Box 619
Jacksonville, VT 05342

AMERICAN KENNEL CLUB (AKC)
CANINE GOOD CITIZEN EVALUATORS IN VERMONT
Website: http://classic.akc.org/events/cgc/cgc_bystate.cfm

For more information about the AKC's Canine Good Citizen (CGC) Program please visit: http://classic.akc.org/events/cgc/program.cfm

CITY	NAME	EMAIL ADDRESS
Braintree	Kasara Fleury	gone2thedogz04@yahoo.com
Cornwall	Peg Cobb	peg@starvalegoldens.com
East Berkshire	Maryanne Wood	maryannew@caninedimensions.com
Franklin	Margaret Teitelbaum	kasha@franklinvt.net
Guilford	Roo Grubis	rooanddogs@yahoo.com
Hydeville	Lorene McLaughlin	mcz54@comcast.net
Manchester Center	Ann Gavett	apgavett@gmail.com
Milton	Sherri Bushee	imprintdogtraining@gmail.com
Montpelier	Sheryl Begin	sbegin@vssg.com
Morrisville	Christina Williamson	dogtownobedience@myfairpoint.net
North Clarendon	Barbara Van Raden	Barbara@9labs.org
North Hero	Deborah Brown	nllabs@together.net
North Springfield	Debbie Ryan	willowfarm@vermontel.net
Orleans	Pamela Parkinson	parki5@netzero.net
Pawlet	Caroline Albert	apexwsh@vermontel.net
Putney	Bill Grant	info@ultimatecompanion.com
Rutland	David Marshall	begavtc02@yahoo.com
Rutland	Erynn Connors	4pawsacademy@gmail.com
Rutland	Nathan Whitehorne	nwhitehorne@gmail.com
Shaftsbury	Katie McKenzie	dogloverstraining@gmail.com
South Burlington	Sheila Lewonski	pawsitivetouch@hotmail.com
Wallingford	Sharon Kroker	skroker@vermontel.net
Wells	Darlene Gould	gouldswells@hushmail.com
White River Junction	Susan Kenney	goldenbookends@yahoo.com
Williston	Amy Haskell	amy@showmethebiscuit.com
Williston	Lisa Primo	ldprimo@aol.com
Williston	Amanda Poquette	amanda@doggiedaycare.com
Winooski	Lori Bielawa	loribwaggles@gmail.com



VERMONT LEAGUE
OF CITIES & TOWNS

89 Main Steet, Suite 4
Montpelier, VT 05602

802-229-9111/800-649-7915
fax: 802-229-2211
email: info@vlct.org
web: www.vlct.org