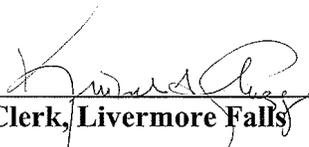


**DOG CONTROL ORDINANCE
TOWN OF LIVERMORE FALLS**

TEST: A True Copy of an ordinance entitled “Dog Control Ordinance of the Town of Livermore Falls” as certified to me by the Municipal Officers of the Town of Livermore Falls on the 12th day of June, 2002.



Town Clerk, Livermore Falls

**DOG CONTROL ORDINANCE
TOWN OF LIVERMORE FALLS**

Section I. Purpose

This ordinance is adopted in the exercise of municipal home rule power under the Maine Constitution and 30-A MRSA Section 3001. The purpose of this ordinance is to regulate dogs in the Town of Livermore Falls, to end the problems caused by dangerous dogs, dogs running at large, barking dogs, and property damage occasioned by dogs held to a minimum or eliminated, for the protection of the health, safety, comfort, convenience and general welfare of the residents of the town, without unreasonably restricting owners and their dogs in their normal activities, while holding owners responsible, where it is appropriate to do so, for the deleterious conduct of their dog.

Section II. Definitions

As used in this ordinance, unless the text clearly otherwise indicates, the following words and phrases have the following meanings:

A. "Attack", "attacks", and "attacking" means an unprovoked actual biting; they also mean, where they occur without provocation, a mere showing of the teeth, or growling and barking, or any combination of these acts, from which a person reasonably receives an impression of impending or imminent physical harm by the dog to himself or herself, to another or others, or to a domestic pet or farm animal.

B. "Dog" includes both genders of dogs.

C. "Owner" means any person or persons, firm, association, or corporation, or other legal entity amenable to civil process, owning, keeping, or harboring, or in possession of, or having the control of a dog, and includes the parent or parents, or guardian of a minor who owns, keeps, harbors, or is in possession or control of a dog.

D. "Dangerous dog" means the following, regardless of whether the dog is on or off the premises of its owner at the relevant time:

1. A dog that attacks a person regardless of whether it causes physical harm to that person, provided at the time of the attack the person is not trespassing with criminal intent on the owner's premises.

2. A dog that attacks a domestic pet or farm animal and causes harm to that domestic pet or farm animal.

It is irrelevant to these definitions of a dangerous dog that an attack occurs outside the Town of Livermore Falls, or even outside the State of Maine.

E. "Running at large" means off the premises of the dog's owner and not under the control of an owner of the dog who is physically capable of controlling and restraining the dog by a leash, cord or chain.

Section III. Nuisance

Dangerous dogs, dogs running at large, and barking dogs are hereby declared a public nuisance.

Section IV. Identification

An owner shall ensure that the owner's dog, if two months old or older and out of doors, whether on or off the premises of the owner, unless confined within a secure enclosure or container, wears a collar or harness which there must be securely attached an identification tag with the owner's name, address (if any), and telephone number (if any). Alternatively, an owner may provide for identification by having the dog wear such a collar that it is at all times clearly and legibly embroidered with the information which in combination with one or more security tags shows the required information.

Section V. Running at Large

Special restrictions governing dogs on municipal property. No owner of a dog shall cause or permit a dog to run at large within the town. A dog, while in or on the way or place other than a public way or other municipal property, shall be deemed to be under restraint within the meaning of this ordinance if it is controlled by a leash, cord, or chain. An owner of a dog shall ensure that the dog, when on any public way, and on all municipal property, including but not limited to the town parks and public ways, municipal sidewalks and recreational and athletic fields, is on a leash or

tether at all times and is accompanied by an owner who is physically able to control and restrain the dog from an attack and who tends the leash or tether at all times while the dog is on municipal property, and who does not permit the dog to run at large on municipal property. An owner accompanying a dog on municipal property, other than an owner with visual acuity accompanying a seeing eye dog, so called, on municipal property, shall collect any feces or vomits deposited by the dog and dispose of same in a sanitary, lawful manner.

Nothing in the ordinance shall be held to require the leashing or restraint of any dog other than a dangerous dog while on the owner's premises.

Section VI. Dangerous Dogs

An owner who is given notice in writing by the Town's Animal Control Officer, any Law Enforcement Officer, or any State Official that the owner's dog has bitten or is reasonably believed to have bitten any person, or has or is reasonably believed to have in any way injured any person so as to cause an abrasion of the skin to that person, shall not without further written authorization by an officer or official, sell, give, or otherwise convey the ownership or possession of that dog, or remove or suffer or permit that dog to be moved beyond the boundaries of the town, except or under the care of a licensed veterinarian, or of an animal control officer, or a law enforcement officer. An owner receiving such notice shall immediately place the dog under confinement for a period of at least 10 days and shall promptly obey all rabies detection and control directions of an animal control officer, licensed veterinarian, law enforcement officer, or state official concerning that dog. An owner receiving such notice shall comply with all applicable regulations of the Maine Commissioner of Agriculture and the Maine Commissioner of Human Services and their authorized officials, employees, and agents in matters of rabies detection and control.

Section VII. Special Restraint of Dangerous Dogs

An owner of a dog that has been determined by a court to be a dangerous dog shall ensure that the dog is restricted at all times to the premises of the owner, except when being transported by a secure motor vehicle to a veterinarian or to some other premises of that owner, or to the custody of the animal control officer or law enforcement officer. The owner of such a dog will ensure that the dog, when out of doors on the owner's premises, is either

contained within secure enclosures or is fastened with a secured latch to a reinforced chain restraint, the length of which is such that the dog may in no event approach any closer than three (3) feet from the sidewalk or road edge, whichever is applicable. The owner shall ensure that the restraint is maintained and secure at all times the dog is out of doors on the owner's premises and not in a secured fenced-in enclosure.

Section VIII. Barking Dogs

No owner of a dog shall suffer or permit that a dog, by loud, frequent, or habitual barking, howling or yelping to disturb the peace of another person. (An incident of such disturbance of the peace occurring less than twelve (12) hours after is another violation of this ordinance.)

Section IX. Penalties

For an initial violation of this ordinance by an owner, the owner shall be ordered to pay a penalty of not less than fifty dollars (\$50.00) not more than two hundred and fifty dollars (\$250.00). In determining the amount forfeited, the court shall consider any evidence in mitigation, extenuation, or aggravation it considers pertinent to the offense, including but not limited to the civility and degree of cooperation exhibited by the owner. The penalty shall be increased by a minimum of \$50.00 above the penalty for the immediate preceding violation. All penalties awarded, and all the sums recovered, shall accrue to benefit the Town of Livermore Falls. An owner found to have violated this ordinance shall pay all fees and surcharges assessed or required by a court or court order or rule and shall pay court costs.

For purposes of illustration of the penalty provision only, if an owner were found, in a single court proceeding, to have committed 4 violations, and if the penalty for the initial violation were set at \$100.00 then the penalties for the succeeding violations would be \$150, \$200, and \$250 for a total of \$700 in penalties; similarly, if there occurred thereafter a second enforcement action for a new single violation against the same owner and if there were a finding of a violation, then the penalty for the violation would be \$300.

Section X. Procedure on Violation

Any law enforcement officer, on complaint of any person on his or her own initiative, may initiate prosecution for violation of this ordinance by filing a complaint with the Maine District Court for the division that includes the Town of Livermore Falls and serving a summons and a copy of the complaint upon the owner. Any law enforcement officer certified by the Maine Criminal Justice Academy may represent the Town in District Court in the prosecution of alleged violations of this ordinance. In the alternative, the municipal officers may, if they desire and if the funds are available, engage and appoint counsel to prosecute the alleged violations.

A. ORDER OF THE COURT. If upon hearing, the court determines that the ordinance has been violated, the court shall impose an appropriate penalty. If the court determines that a dog is a dangerous dog, the court may order the owner to muzzle the dog, and to restrain it, and confine it to the owner's premises; however, if the court finds that the dog has killed, maimed, or inflicted more than de minimis bodily injury upon a person, or upon a domestic pet or farm animal, or the court determines that the dog has a history of attacks, then the court should ordinarily order the dog to be euthanized. Such euthanasia shall be at the owner's expense, by a licensed veterinarian or other licensed official.

B. FAILURE TO ABIDE BY A COURT ORDER. An owner's failure to comply with an order issued pursuant to paragraph A, immediately above, constitutes a violation of this ordinance, and may be punishable upon a new summons or as contempt, following issuance of a show cause order on affidavit of a law enforcement officer. If an order of euthanasia is not complied with by the time set by the court, the court may, upon application by any law enforcement officer or other person, upon notice to the owner, issue a warrant to any law enforcement officer or constable in the municipality where the dog is found, to destroy the dog and make return of the warrant to the court within 14 days from the date of the warrant. The owner shall pay all costs for any supplementary proceedings and all reasonable costs for seizure and euthanasia of the dog. A failure to pay such costs by any time stated in the order of the court for making such a payment constitutes a distinct violation of this ordinance, which may also be punished on proceedings for contempt after issuance of a show cause order.

C. COMPLAINT FOR DOGS PRESENTING IMMEDIATE THREAT TO PUBLIC. After filing a complaint in District Court and before hearing, the dog shall be subject to muzzling, restraint, or confinement upon its owner's premises upon order of the law enforcement officer who filed the complaint to the owner, if that officer's belief is that the dog poses immediate threat to the public. The officer may proscribe the degree and means of restraint or confinement. Failure to comply shall constitute a distinct violation of this ordinance. Upon failure to comply, and after notice to the owner, the officer may apply to the district court for an order of authorization to take possession of the dog that poses immediate threat to the public and turn it over to the care of a suitable person or organization, at the owner's expense. The court in its final order shall include an order to pay such expense in a stated amount.

Nothing in this ordinance is intended to bar or limit the right of the individuals to make written complaints concerning dangerous dogs pursuant to State Law, or bar or limit any law enforcement officer from proceeding to act upon such a written complaint in accordance with the State Law.

Section XI. Effective Date

This ordinance shall take effect upon passage.

Section XII. Severability

Should any portion of this ordinance be found invalid for any reason by a court of competent jurisdiction, then all portions not found invalid shall remain unaffected and continue in full force effect.

Section XIII. Repealed

This ordinance shall supersede all previous dog ordinances, which are hereby repealed from and after the effective date of adoption of this ordinance.

Public Hearing: March 18, 2002

Adopted: June 12, 2002