

# Town of Union

## Canine Control Ordinance



A True Copy Attest

*Marcy Corwin*

**Marcy Corwin**

**Union Town Clerk**

**June 16, 2014**

**SECTION 1: AUTHORITY.**

This Ordinance is adopted under the general authority of municipalities to enact ordinances under the Home Rule Amendment of the State of Maine Constitution, Article VII, Part Second, Section 1, 30 M.R.S.A. § 3001, and specific authority pursuant to 7 M.R.S.A. § 3950.

**SECTION 2: PURPOSE.**

The purpose of this Ordinance is to establish and enact a regulatory basis for insuring that all dogs residing in the Town of Union are licensed and immunized and are kept under the control of their owners, keepers, or custodians, at all times so that they will not injure persons, damage property, or create a nuisance.

**SECTION 3: DEFINITIONS.**

**A. Abandoned Dog.** An abandoned dog is an animal that has been deserted by its owner or keeper.

**B. Animal Control Officer.** An Animal Control Officer (ACO) is appointed by the Municipal Officers of the Town of Union in accordance with 7 M.R.S.A. § 3947. The ACO shall have all of the powers provided under this Ordinance and the Ordinances of the Town of Union and the laws of the State of Maine.

**C. Animal Shelter.** An animal shelter is a licensed facility that includes a physical structure or part of a physical structure that provides a temporary or permanent shelter to stray, abandoned, abused, or owner surrendered animals.

**D. At Large.** At large shall mean off the premises of the owner and not under the control of any person by means of personal presence and attention or ability to manipulate and command the conduct of the dog.

**E. Control or Voice Control.** Control or voice control means that the dog returns immediately to and remains by the side of the person responsible in response to verbal command from the responsible party. If the dog approaches or remains within ten (10) feet of any person other than the responsible party, then the dog is not considered under control or voice control and a violation of this Ordinance occurs unless such person (or in case of a minor child, an adult present with the child) has communicated to the responsible party by spoken word or gesture that such person consents to the presence of the dog.

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**F. Dangerous Dog.** Dangerous dog means a dog that:

- (1). Bites a person or a domesticated animal who is not trespassing on the dog's owner's or keeper's premises at the time of the bite; or
- (2) Causes a reasonable and prudent person who is not on the dog's owner's or keeper's premises and is acting in a reasonable and non-aggressive manner to fear imminent bodily harm or is put in apprehension of imminent bodily harm.

Dangerous dog does not include a dog certified by the State and used for law enforcement purposes. It does not include a dog that bites or threatens to assault an individual or animal who is on the dog's owner's or keeper's premises, if the dog has no prior history of assault and was provoked by the individual immediately prior to the bite or threatened assault.

**G. Dog.** Dog shall mean any of a large and varied group of domesticated animals, whether male or female and whether neutered or not, and is a member of the genus and species *canis familiaris*.

**H. Nuisance.** Nuisance shall mean to:

- (1). Annoy or disturb any reasonable person by causing unreasonable noise, smell, litter or other effect which unreasonably disturbs the peace of another.
- (2). Create litter off the premises of the owner unless the owner immediately removes and disposes of such litter, including feces, in a safe and healthful manner.
- (3). Cause damage to property other than the owner's.
- (4). Chase automobiles, motorcycles, bicycles, or other vehicles.
- (5). Run at large.

**I. Owner.** Owner shall mean any person, association, corporation, or other entity, which owns, keeps, harbors, has custody or possession and control of a dog.

**J. Definitions Generally.** The definitions set forth in 7 M.R.S.A. § 3907 are incorporated herein by reference, and as may be applicable.

**SECTION 4: LICENSE, REGISTRATION AND IDENTIFICATION.**

**A. Licensing.** Each owner or keeper of a dog that is six (6) months of age or over shall on or before January 1<sup>st</sup> of each year, or at such time as such dog becomes six (6) months old, cause such dog to be licensed with the Town Clerk, in accordance with State mandated requirements. Dogs kept in licensed facilities shall require dog licenses in accordance with the

provisions of 7 M.R.S.A. § 3939. Dogs covered under a kennel license shall comply with the tag requirements of 7 M.R.S.A. § 3923-C(4), including the kennel operator's contact number.

**B. Tags.** The Town Clerk shall provide with each new license issued to a dog, a tag indicating the year the license was issued and such other information as may be required under 7 M.R.S.A. § 3922-B. The tag shall remain with the dog for as long as the dog is kept within the Town of Union. At each license renewal, the Town Clerk shall provide a sticker indicating the year for which the license is valid. Each sticker shall be attached to the back of the tag. The owner shall make sure that the tag is securely attached to a collar of leather, metal, or other material, of comparable strength and that the collar is worn at all times by the dog for which the license was issued, except when hunting and training or in an exhibition. If the dog is hunting, training, or in an exhibition, its owner shall produce proof of licensure within twenty-four (24) hours upon request by the Animal Control Officer. If a sticker and tag are lost, the owner shall obtain a new license tag and sticker from the Town Clerk.

**C. Rabies Tags.** Rabies tags obtained from a veterinarian for immunization against rabies must be securely attached to a collar of leather, metal, or other material, of comparable strength, and must be worn by the dog for which the tag was issued, except when hunting, training or in an exhibition or on the premises of the owner, as required under 7 M.R.S.A. § 3923-B(2-A). If the dog is hunting, training, or in an exhibition, its owner shall produce proof of licensure and proof of rabies immunization within twenty-four (24) hours upon request by the Animal Control Officer.

## **SECTION 5: CONTROL OF DOGS.**

When off the premises of the owner, a dog shall be under the control of a person responsible for the dog's behavior except as follows:

- (1). Dogs used during hunting.
- (2). Dogs used for law enforcement.
- (3). Service dogs.
- (4). Dogs on private property with the property owner's permission.

## **SECTION 6: PROHIBITIONS AND VIOLATIONS.**

**A. Noise – Barking Dogs.** No person shall keep or maintain dog which continuously or repeatedly barks, howls, makes other loud or unusual noises, or in any manner creates a nuisance as that term is defined in this Ordinance, and disturbs neighborhoods and other persons through such unreasonable and objectionable noise. Barking noise or other nuisance activities shall not be permitted or allowed where the dog barks, howls, or makes other sounds

common to its species which occur in a steady, rapid succession for twenty (20) or more minutes or occur intermittently for one (1) hour or more. This Section shall not apply to any dog that is situated at or by or near a legitimate cause for provocation. Provocation shall mean any cause beyond the reasonable control of the owner. This Section shall also not apply to farm animals kept on a property located in the Town of Union, trained working dogs (while working), certified guard dogs, and other dogs that are performing their assigned duties (i.e. service dogs).

**B. Dogs Running At Large.** It shall be a violation of this Ordinance for any owner or keeper of a dog to allow that dog, whether licensed or unlicensed, to run at large except when used for hunting purposes.

**C. Trespass.** It shall be a violation of this Ordinance for any owner or keeper of a dog to allow that dog to enter onto the property of another after the owner has been warned by the Animal Control Officer or a Law Enforcement Officer that the animal was found on the property of another. The owner or keeper of the animal is responsible, at the owner's expense, for removing such animal found trespassing. The Animal Control Officer, may, at the owner's expense, remove and control the animal if the owner fails to remove the animal after having been notified by the Animal Control Officer that the animal was trespassing or the animal is in immediate danger to itself, to person(s), or to another's property.

**D. Dangerous Dogs.** It shall be a violation of this Ordinance for any owner or keeper to harbor a dog which is considered dangerous under the definition in Section 3 of this Ordinance.

**E. Dogs in Heat.** It shall be a violation of this Ordinance for any owner or keeper of any female dog in heat to fail to keep the dog confined or on a leash if not on the property of the owner or keeper.

**F. Public Health Threats.** The owner or keeper of a dog that may have been exposed to a contagious or viral disease may be served with a quarantine notice. The owner or keeper shall confine and control the dog in accordance with the instructions in the notice. Failure to comply with the notice will be considered a violation of this Ordinance and may result in Court Ordered seizure of the quarantined animal and may subject the owner or keeper to the penalties in Section 13 below.

## **SECTION 7: BITING DOGS.**

**A. Disposition.** The owner of a dog who knows or has been advised that the dog has bitten a person or domestic animal shall confine the dog or have it confined by itself in a secure enclosure for at least ten (10) consecutive days and shall notify the Health Officer/Animal Control Officer immediately of the time, place, and reason for confinement. During the period of confinement, the owner shall not destroy the dog or allow it to be destroyed.

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**B. Examination.** The Health Officer/Animal Control Officer/Other Law Enforcement Officer shall have a dog which has been confined because of having bitten a person kept under observation for symptoms of rabies. At the end of the confinement period, the Health Officer shall determine if he shall employ such expert assistance as may be necessary. If he deems it necessary to keep the animal confined for longer than the prescribed period, he/she shall order it done. If the dog is found to be rabid, he/she shall notify the owner and person bitten, and shall have the dog destroyed immediately, and not shot in the head as the brain shall remain intact following any procedure recommended by Health and Welfare. The animal shall be destroyed by a licensed or qualified person (i.e. veterinarian, etc.). If the dog is not rabid, the owner shall thereafter muzzle the dog or keep it confined. All expenses incurred by the Town of Union in carrying out the procedure provided by this section, shall be paid by the owner of the dog.

**SECTION 8: SANITATION REQUIREMENTS.**

An owner or keeper must remove and dispose of any feces left by the dog on any sidewalks, streets, public property, or private property (other than the property of the owner of animal or the person who has consented to the presence of the animal on his/her property), and dispose of such feces into appropriate litter receptacle. An owner whose animal is present on any property from which the animal feces is required to be removed pursuant to this section, must have in his or her possession a plastic bag or similar container not part of the human body for collecting and removing the feces. If the dog gets into or opens any garbage bags, bins, or other containers and/or causes garbage to be strewn in the immediate area, the owner or keeper of the dog shall be obligated to properly clean up the strewn garbage. This section does not apply to the property of the dog's owner or to a dog accompanying any handicapped person, who by reason of his/her handicap, is physically unable to comply with the requirements of this section.

**SECTION 9: CRUELTY.**

No person shall harm in any way any dog on an owner's premises or under control of the owner except that the Animal Control Officer may initiate necessary actions to control any animal not maintained in accordance with this Ordinance, other local and State laws, whether on public or private property.

**SECTION 10. ADMINISTRATION AND ENFORCEMENT.**

- A.** The Animal Control Officer (ACO) shall enforce this Ordinance.
- B.** The ACO shall apprehend any dog at large and:
  - (1). Shall record its breed, color, sex, license number, and the name and address or telephone number of its owner.

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- (2). Shall attempt to locate and return the dog to the owner.
- (3). If the owner cannot be readily located, the ACO may transfer the dog to the Animal Shelter and issue a written notice that the owner may reclaim it by paying the fees established by the Animal Shelter.
- (4). Shall assess the penalties set forth in Section 13 below and, if the dog is unlicensed, require that it be licensed.

**C.** The ACO shall respond to and investigate reports of dogs barking or creating a nuisance and:

- (1). Shall attempt to locate the owner;
- (2). If the owner cannot be located within 24 hours of the initial report, the ACO may transfer the dog to the Animal Shelter and issue a written notice that the owner may reclaim it by paying the fees assessed by the Animal Shelter;
- (3). Shall assess the penalties set forth in Section 13 below, order that the nuisance be remedied and, if the dog is unlicensed, require that it be licensed.

**D.** The ACO shall respond to and investigate reports of dangerous dogs not properly confined or muzzled and:

- (1). Shall attempt to locate the owner;
- (2). If the owner cannot be located immediately, the ACO may transfer the dog to the Animal Shelter and issue a written notice that the owner may reclaim it by paying the fees assessed by the Animal Shelter;
- (3). Shall assess the penalties set forth in Section 13 below, require that the dog be confined or muzzled at all times, and, if the dog is unlicensed, require that it be licensed.

**SECTION 11: IMPOUNDING.**

**A. Authority.** The Animal Control Officer (ACO) shall apprehend any dog found at large and impound it in the Animal Shelter.

The ACO shall be empowered to impound a nuisance dog when the owner of the dog cannot be located. Whenever a dog confined by an outside fence or on a leash while on its owner's property disturbs the peace of any person by frequently and habitually barking, howling, or creating other noise as specified in Section 6(A) and the owner of said dog cannot be located, the ACO shall be empowered to impound the dog.

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The ACO may apprehend and impound any dangerous dog.

At the time of impoundment, the ACO shall register the breed, color, sex, license number, and name, address, or telephone number of the owner in a book kept for that purpose.

**B. Refusing to Reclaim Dog.** It is unlawful for a person to fail or refuse to reclaim his dog and pay the cost required by Section 11(C) below within one (1) week after receiving oral or written notice of its impoundment.

**C. Notice and Reclamation.** The ACO shall immediately notify the owner by telephone that the dog has been impounded by the ACO and that the owner may reclaim it by licensing the dog if it is unlicensed and paying the following fees:

- (1). Pick-up Fee - \$25.00.
- (2). Impoundment Fee - \$25.00.
- (3). Boarding Fee - \$10.00 per day.

If the impoundment is at an animal shelter the owner shall pay all costs required or imposed by the shelter and reimburse the Town for any costs assessed by the shelter to the Town.

If the owner of the dog is unknown or cannot be found, the ACO shall immediately notify the Town Office staff and post the notice on the bulletin board in the lobby of the Town Office.

**D. Disposition of Unclaimed Dogs.** The ACO shall place the dog with the Animal Shelter that the Town of Union has a contract with for the current year and if the dog is not reclaimed by the owner within seven (7) days then the dog shall be put up for adoption or destroyed.

**SECTION 12: PROHIBITED AREAS.**

Dogs shall be prohibited from the baseball field behind the Town buildings known as the Ralph Thorndike Field. The Animal Control Officer shall have the authority to apprehend, remove, and, if necessary, impound any dog found within the baseball field area. The Selectmen shall have the authority to include other public areas where dogs may be excluded, after notice and a public hearing.

**SECTION 13: PENALTIES.**

The following penalties, which shall inure to the benefit of the Town of Union, shall apply:

**A. Running at Large.** The owner of a dog which has no tags and is found running at large may be punished by a fine of not more than \$25.00 and issued a written warning for the

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first offense. For the second and subsequent offenses, the owner shall be punished by a fine of not more than \$100.00.

**B. Running at Large Without Tags.** The owner of a dog which has no tags and is found running at large may be punished by a fine of not more than \$50.00 and issued a written warning for the first offense. For the second and subsequent offenses, the owner shall be punished by a fine of not more than \$100.00.

**C. Running at Large After Causing a Nuisance.** The owner of a dog which is found running at large who knows or has been advised that the dog has caused a nuisance and has failed to keep the dog on his premises or under his control or under the control of a person charged with that responsibility shall, for the first offense, be punished by a fine of not more than \$50.00. For the second and subsequent offenses, the owner shall be punished by a fine of not more than \$100.00.

**D. Disturbing the Peace.** The owner of a dog which disturbs the peace of any person by frequently and habitually barking, howling, or creating other noise as defined in Section 7 shall be punished by a fine of not more than \$50.00 for the first offense, \$100.00 for each subsequent offense.

**E. Dangerous Dogs.** The owner of a dangerous dog which is unconfined without a muzzle shall be punished by a fine of not more than \$250.00, and the Court may order the dog be destroyed immediately.

**F. Refusing to Reclaim Dog.** A person who fails or refuses to reclaim his dog and pay the cost required by Section 10 within one week after receiving oral notice of its impoundment shall be punished by a fine of not more than \$100.00.

**G. General Penalty.** A person who violates any other provision of the Ordinance shall be punished by a fine of not more than \$150.00.

#### **SECTION 14: AMENDMENTS.**

This Ordinance may be amended by a vote of the citizens of the Town of Union at a special or an annual town meeting.

#### **SECTION 15: SEVERABILITY; EFFECTIVE DATE.**

In the event any portion of this ordinance is declared invalid by a court of competent jurisdiction, the remaining portions shall continue in full force and effect.

This Ordinance shall be in full force and effect at the adjournment of the town meeting at which the Ordinance or any amendment thereto has been approved.