

TOWN OF WESTFORD, VERMONT

LIVESTOCK ORDINANCE

1. Purpose and Authority

The selectboard of the Town of Westford finds that Livestock Running at Large present a significant danger to motorists, pedestrians, cyclists and the general public traveling on Town and State highways, and cause damage to private property. Livestock Running at Large may also pose a safety hazard to the community in the form of physical threats and transmission of communicable diseases. Accordingly, the Westford Selectboard finds Livestock Running at Large in the Town of Westford to be a public nuisance.

The purpose of this ordinance is to abate and remove this public nuisance by prohibiting such conduct, adopting penalties and other enforcement mechanisms, and establishing reasonable regulations for impoundment of Livestock Running at Large to thereby protect the health, safety, and welfare of the public and the quiet enjoyment of Westford residents' homes and property. This ordinance is adopted by the Westford Selectboard under the authority of 24 V.S.A. § 2291 (14), (15), and (30). This ordinance shall constitute a civil ordinance within the meaning of 24 V.S.A. Chapter 59.

2. Definitions

For purposes of this ordinance, the following words and phrases shall apply:

Clerk means the Town Clerk of the Town of Westford.

Enforcement Officer means any law enforcement officer, animal control officer, Town constable or other persons designated an Enforcement Officer under this Ordinance by the Westford Selectboard.

Impoundment Expenses means expenses incurred by the Town for the impoundment of Livestock, including, but not limited to transportation, boarding, food, care, and veterinary expenses.

Livestock means any, horse, stallion, goose, duck, chicken, rooster, turkey, ratites, poultry, pheasant, chukar partridge, coturnix quail, psittacine birds, ferrets, rabbits, camelids, colt, gelding, mare, sheep, ram, lamb, bull, ox, steer, heifer, cow, calf, mule, donkey, goat, kid, lama, pig or swine, or domesticated ungulates.

Livestock Owner or **Owner** means any person who owns Livestock, has actual or constructive possession of Livestock, or is responsible for the care and control of such Livestock.

Remedial Action means action by the Owner of Livestock, as directed by an Enforcement Officer or the Town Selectboard in writing, necessary to securely contain the Livestock

on the Livestock Owner's property or on property that the Livestock Owner has a legal right to use. Remedial Action may include, but is not limited to, construction or repair of fences, gates, pens, corrals, paddocks, sties, barns, sheds, or other structures, built to reasonable standards (as circumstances may dictate) and necessary to contain the Livestock on the Livestock Owner's property.

Run at Large or **Running at Large** means off property owned, leased or lawfully used by the Owner and not under the control of the Owner or an agent of the Owner.

Redemption Fee means the amount of money (in U.S. Dollars) as determined by the Enforcement Officer that must be paid to the Clerk prior to the release of impounded Livestock. This amount includes Impoundment Expenses, costs of caring for the impounded Livestock, and any damages assessed by the Enforcement Officer.

Waiver Fee means the amount of money a Livestock Owner that was issued a municipal complaint may pay within the time required to answer the municipal complaint for violation of this Ordinance if the Livestock Owner wishes to waive the right to appear before the Judicial Bureau to contest the complained of violation of this Ordinance.

3. Prohibition

Livestock Running at Large is a public nuisance in the Town of Westford. A Livestock Owner shall not allow, permit, or suffer such Livestock to Run at Large in the Town of Westford. Each day that the Livestock remain Running at Large constitutes a separate violation.

4. Impoundment

(A) An Enforcement Officer may immediately impound, at an impoundment facility designated by the Selectboard, any Livestock found Running at Large in the Town of Westford.

(B) Within twenty-four (24) hours after impounding such Livestock, if the identity of the Livestock Owner can be reasonably ascertained, the Enforcement Officer shall give written notice to the Livestock Owner by electronic mail, physically posting the written notice conspicuously at the Livestock Owner's residence, or personal delivery to the Livestock Owner. The Enforcement Officer shall also send the notice First Class Mail within twenty-four (24) hours after impounding such Livestock or on the next business day if the Post Office is not open within 24 hours after the impoundment of the Livestock. The notice shall inform the Livestock Owner of the violation of this Ordinance and the associated penalty and waiver fee; that the Livestock is impounded at a secure facility; the amount of the Redemption Fee that must be paid prior to release of the impounded Livestock; and the Remedial Action the Livestock Owner must complete prior to release of the impounded Livestock. If the Livestock Owner is unknown, the Enforcement Officer shall, within twenty-four (24) hours of impoundment post a notice in the Town Clerk's office, the Town's website, Front Porch Forum (or other similar community listserv), three (3) public places in the Town, and in a public place in two adjacent towns. The posted notice shall include a description of the Livestock, the time and place the Livestock was found and impounded, and the name, address, and telephone number of the Enforcement Officer. The notice shall be posted for ten (10) days.

(C) If the impounded Livestock was caught Running at Large on public property and caused damage to public property, the notice shall advise the Livestock Owner of the nature and amount of the damages included in the Redemption Fee caused by the Livestock Running at Large as determined by the Enforcement Officer.

(i) If the Livestock Owner disputes the amount of damages added to the Redemption Fee, the Livestock Owner may redeem the impounded Livestock by paying the Redemption Fee under protest to the Clerk and filing a written request for a public hearing before the Selectboard to determine the amount of damages owed to the Town. The requested hearing shall be publicly warned and take place within 30 days of the request. After holding the hearing and considering the evidence, the Selectboard shall issue a written decision within 30 days of closing the hearing. The Selectboard's determination of damages shall be a final decision appealable pursuant to Rule 75 of Vermont Rules of Civil Procedure.

(ii) If the Livestock Owner pays to the Clerk the full Redemption Fee with a written request for a hearing on the amount of assessed damages, the Clerk shall hold the disputed amount of assessed damages until a final decision is rendered. If the Selectboard upholds the assessed amount of damages the Clerk shall continue to hold the amount of assessed damages for 30 days after the Selectboard's final decision and shall deposit the amounts into the Town's General Fund if no appeal is taken from the decision within 30 days. If the Livestock Owner appeals the Selectboard's decision within 30 days of the decision, the Clerk shall hold the disputed amount until a Court issues an order directing what the Clerk shall do with the disputed amount of the assessed damages.

(iii) If the Selectboard determines that the damages assessed by the Enforcement Officer are inaccurate, the Selectboard's written decision shall determine the correct amount of damages caused by the Livestock Running at Large and direct the Clerk to pay the Livestock Owner the difference between the amount of assessed damages paid to the Clerk and the amount of damages determined by the Selectboard.

(D) Nothing in this Ordinance shall be construed as limiting the remedies available at law or equity to the Town or private parties, including but not limited to the right to pursue damages, or any deficiency in damages determined by the Enforcement Officer or the Selectboard in a civil action in the Superior Court without using the impoundment process outlined in Subsection D of this Section, though the Court may reduce any civil judgment by the damages paid pursuant to Subsection D or Subsection G of Section 4 of this Ordinance.

(E) The Remedial Action ordered by the Enforcement Officer shall be completed by the Livestock Owner within forty-eight (48) hours of the written notice or on such other schedule as the Enforcement Officer may authorize in writing.

(F) Impounded Livestock shall be released to the Owner only upon satisfactory completion of the Remedial Action and payment of the full Redemption Fee. The Enforcement Officer shall be authorized to enter the Livestock Owner's property to inspect fences, gates, pens, corrals, paddocks, sties, or other structures to determine if the Remedial Action has been reasonably and appropriately completed prior to release of the impounded Livestock.

(G) If the impounded Livestock is not redeemed from impoundment by the Owner after ten (10) days, or the Owner gives notice to the Enforcement Officer of forfeiture of ownership, or the Owner fails to complete the Remedial Action, or the Owner fails to pay the full Redemption Fee, the Livestock may, at the discretion of the Selectboard, be sold, transferred to a humane society or rescue organization, or humanely destroyed.

(H) The proceeds from the sale of the Livestock, if any, shall be turned over to the Livestock Owner after payment of any outstanding Impoundment Expenses due to the Town, and payment for any damage done by the Livestock in an amount to be determined by the Selectboard after a public hearing.

5. Civil Penalty

(A) A Livestock Owner that allows, permits, or suffers Livestock to Run at Large in the Town of Westford shall be subject to a Civil Penalty of up to \$800.00 per violation. Each day that the Livestock remain at large constitutes a separate violation. . The Enforcement Officer shall be authorized to act as an issuing municipal official to issue and pursue a municipal complaint for the civil penalty before the Vermont Judicial Bureau, or another court of competent jurisdiction. The Enforcement Officer may issue a municipal complaint based on the written complaint of a member of the public certifying the facts set forth in their complaint are true. Civil Penalties may be sought regardless of whether the Livestock was impounded. If the Livestock was impounded, Civil Penalties may be sought in addition to the ordered completion of the Remedial Action, payment of any Redemption Fee and any other remedy legally available to the Town.

(B) An Enforcement Officer is authorized to recover Civil Penalties and Waiver Fees in the following amounts:

| | <u>Civil Penalty</u> | <u>Waiver Fee</u> |
|-------------------------------|----------------------|-------------------|
| First Offense | \$50 | \$25 |
| Second Offense | \$100 | \$50 |
| Third Offense | \$200 | \$100 |
| Fourth Offense | \$400 | \$200 |
| Fifth and Subsequent Offenses | \$800 | \$400 |

(C) In addition to the enforcement procedures herein, the Selectboard may commence a civil action in superior court to obtain injunctive or other appropriate relief and may pursue any other remedy authorized by law, including but not limited to relief available under common law claims, including but not limited to a claim of public or private nuisance.

6. Order Prohibiting Keeping of Livestock

(A) After a Livestock Owner commits a Third Offense under this Ordinance, the Selectboard may of its own initiative or upon a request by an Enforcement Officer, provide the Livestock Owner with notice of and shall publicly warn a public hearing on whether to issue an order prohibiting a Livestock Owner from keeping Livestock in Town. The Selectboard may only issue such an order if the evidence presented shows either:

- (i) The Livestock Owner does not have sufficient capacity, ability, and/or resources to reasonably secure and care for the Livestock; or
 - (ii) The Livestock Owner has demonstrated a willful disregard of the Town's Orders to restrain and enclose the Livestock.
- (B) The Selectboard may limit the prohibition to a particular type of Livestock and reasonably craft its order to address the public health and safety risks at issue.
- (C) The Selectboard may rescind or modify an order prohibiting the keeping of Livestock in Town after a public hearing requested by a former Livestock Owner if, at the hearing, the former Livestock Owner provides sufficient evidence that the Livestock Owner has either:
- (i) Gained sufficient capacity, ability, and/or resources to reasonably secure and care for the Livestock, which the former Livestock Owner did not previously possess prior to the Selectboard's order; and
 - (ii) Demonstrated a credible willingness to comply with the Town's orders for Remedial Action.
- (D) Any order issued by the Selectboard pursuant to Subsections A-C of Section 6 of this Ordinance shall apply only to the Livestock Owner and shall not attach or run with the land owned or controlled by the Livestock Owner.
- (E) In the event that Livestock physically injures or kills a person while Running at Large, the Selectboard may hold a public hearing to determine whether, based on evidence presented at the hearing, the Livestock is a threat to public health and safety and too dangerous to allow it to remain in Town. If the Selectboard determines the Livestock at issue to be a significant threat to public health and safety, the Selectboard may order any of the following:
- (i) The Livestock be euthanized or sent for slaughter;
 - (ii) The Livestock be castrated;
 - (iii) The Livestock be required to wear a bell; or
 - (iv) Any other reasonable remedy that sufficiently addresses the public health and safety risks posed by the animal remaining in the Town.
- (F) Any order issued pursuant to Subsection E of Section 6 that dispossesses a Livestock Owner of Livestock shall include compensation to the Owner for the fair market value of the animal less any unpaid judgments, damages, costs, Impoundment Expenses and/or Redemption Fees due to the Town.

7. Complaints to Enforcement Officer

Any complaint from a member of the public to an Enforcement Officer alleging a potential violation of this ordinance shall be reduced to writing signed by the individual making the complaint and provided to an Enforcement Officer. Such a complaint shall contain, to the extent known by the author, the description of the Livestock witnessed to be violating this ordinance, where the author last saw the Livestock Running at Large, when the author saw the Livestock Running at Large, the identity of the Livestock Owner, and the name and contact information of the author.

8. Other Laws

This Ordinance is in addition to all other ordinances of the Town of Westford and all applicable laws of the state of Vermont.

9. 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.

10. Effective Date

This Ordinance shall become effective sixty (60) days after adoption by the Town of Westford Selectboard. If a petition is filed under 24 V.S.A. §1973, that statute shall govern the taking effect of this Ordinance.

Adopted this 8th day of August

Town of Westford Selectboard

Bill Cleary [Signature] Date 8/8/24

Pat Haller [Signature] Date 8/8/24

Casey Mathieu [Signature] Date 8-8-24

Deb Sawyer Jorschick [Signature] Date 08-08-2024

Wendy Doane [Signature] Date 8.8.24