

**TOWN OF FARMINGTON**

**Animal Control Ordinance**

**Enacted: July 19, 2004**

**Amended: March 20, 2010**

**Certified by:** \_\_\_\_\_

**Name – Leanne Pinkham**

**Town Clerk**

**Affix Seal**

**Town of Farmington  
Chapter 4  
Table of Contents**

**Article 4-1 Dogs**

4-1.1	Title	3
4-1.2	Authority	3
4-1.3	Administration and Enforcement	3
4-1.4	Definitions	3
4-1.5	Disturbing the Peace Prohibited	3
4-1.6	Running at Large Prohibited	3
4-1.7	Duty to Dispose of Feces	4
4-1.8	Penalty	4
4-1.9	Effective Date	4

**Article 4-12 Dog Barking**

4-2.1	Purpose	4
4-2.2	Nuisance	4
4-2.3	Barking Dogs	5
4-2.4	Complaint	5
4-2.5	Penalties	5
4-2.6	Waiver Fee	6
4-2.7	Exemptions	6
4-2.8	Severability	7
4-2.9	Appeals	7
4-2.10	Mediation	7
4-2.11	Kennels	7
4-2.12	Disclosure	7
4-2.13	Amendments	8
4-2.14	Effective Date	8
	Exhibit 1: Sustained Barking or Howling for One Hour or More	9
	Exhibit 2: Sustained Barking or Howling for Three Hours or More	10

# **Town of Farmington**

## **Chapter 4. Animal Control Ordinance**

### **Article 1. Dogs**

#### **4-1.1 Title**

This Ordinance shall be known as and may be cited as the Town of Farmington Animal Control Ordinance and will be referred to herein as “this Ordinance”.

#### **4-1.2 Authority**

This Ordinance is enacted pursuant to the Home Rule Authority granted to the Town of Farmington in accordance with the provision of 30-A MRSA §3001.

#### **4-1.3. Administration and Enforcement**

The Municipal Officers, or their duly appointed agents, shall administer and enforce this Ordinance.

#### **4-1.4 Definitions**

- A. “Dog” includes both genders of dogs.
- B. “Owner” means any person or persons, firm, association, corporation or other legal entity amendable to civil process, owning, keeping, harboring, in possession of, or having control of a dog or dogs.
- C. “At large” shall be intended to mean off the premises of the dog owner or a member of his immediate family, either by leash, cord, chain, at “heel”, or under command.

#### **4-1.5 Disturbing the Peace Prohibited**

It shall be unlawful fro the owner of a dog to cause or permit such dog to disturb the peace of any person by biting, chasing, or continued barking or howling, or in any other manner, or destroy the property of any person.

#### **4-1.6 Running at Large Prohibited**

No owner shall cause or permit any dog owned or kept by him, or in his possession or under his control, to run at large within the Town. A dog, while in or on any public way or place, or in or on any other place except, as hereafter

provided shall be under restrain, within the meaning of this Ordinance, if it is controlled by a leash, cord, chain, or at “heel”, or under the control of a person and obedient to that person’s command, or on or within a vehicle being driven or parked in the streets, or within the property limits of its owner or keeper. Nothing in this Ordinance shall be held to require the leashing or restraint of any dog while on its owner’s or keeper’s premises.

#### **4-1.7 Duty to Dispose of Feces**

It shall be a violation of this article for any person who owns, possesses, or controls a dog to fail immediately to remove and dispose of any feces left by his or her dog on any street, sidewalk, publicly owned property or private property of another.

#### **4-1.8 Penalty**

Every person convicted of any provisions of this Article shall be punished by a fine of at least thirty dollars (\$30) but not more than one hundred dollars (\$100).

#### **4-1.9 Effective Date**

The effective date of this Article is July 19, 2004.

### **Article 2. Dog Barking**

#### **4-2.1 Purpose**

The purpose of this Article is to regulate dog barking within the Town and to address the problems caused by excessive dog barking.

#### **4-2.2 Nuisance**

Excessive and/or habitual barking, howling, or yelping by any dog or dogs, as described in section 4-2.3 of this Article, is hereby declared to be a public nuisance.

Per 17 M.R.S.A. §2701, “Any person injured in his comfort, property or the enjoyment of his estate by a common and public or a private nuisance may maintain against the offender a civil action for his damages, unless otherwise specially provided”.

This Article shall not be construed as in any way repealing, invalidating, or abrogating 17 M.R.S.A. §2701-2706 or limiting the right of prosecutions under this law.

Violation of this Article is prima facie evidence of a nuisance under 17 M.R.S.A. §2701-2706.

### **4-2.3 Barking Dogs**

No owner or person having custody of any dog or dogs within the legal limits of the Town shall keep or maintain a dog or dogs which create a nuisance by continued or repeated barking, howling, yelping, or making of other loud or unusual noises.

An owner who keeps or maintains a dog or dogs whose barking, howling, or yelping sustained for one hour or intermittently for three hours, can be heard at or beyond the boundary of the property on which the dog(s) is(are) located, violates this section, and has created a nuisance.

### **4-2.4 Complaint**

A written complaint from a person or persons disturbed by a barking dog or dogs shall include the date the disturbance began, the description of the disturbance, and the length of time of the disturbance. The complaint must be signed and sworn to the Town's Animal Control Officer and/or any Police Officer representing the Town. Any of the above authorities may investigate and may give written warning to the owner of the violation of this Article, and order that said violation must cease. The written warning shall be made part of the complaint. See attached barking/howling log/statement forms.

### **4-2.5 Penalties**

Any owner who violates this section after the initial written warning commits a civil violation, as defined by 17 M.R.S.A. §4-B and M.R.Civ.P.80H., for which a civil penalty of not less than \$50.00 nor more than \$250.00 shall be assessed.

In determining the amount to be 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.

Upon a second and any subsequent violation of this Article, the penalty shall increase by a minimum of fifty dollars (\$50.00) above the penalty for the immediately preceding violation. The paying of a waiver fee for violations per section 4-2.6 of this Article does not absolve the payer of a violation count.

Further, upon a finding by the court of more than one (1) violation involving the same dog(s), the court may order the dog(s) forthwith removed beyond Town limits, or in the alternative, order the Town to give away or sell the dog(s), or, some other action the Court may deem appropriate.

If more than six (6) violations by an owner occur within a period of one (1) year, the fine shall be doubled.

An owner who allows a dog or dogs to bark, howl, or yelp in violation of this Article, between the hours of 10:00 P.M. and 7:00 A.M. shall be subject to double penalties.

The Municipal Officers, the Animal Control Officer, a Police Officer, or any other duly appointed agent(s) of the Municipal Officers, at their exclusive discretion, may limit the number of violation citations issued within a twenty-four hour period if they determine that the means to abate the dog barking, howling, and/or yelping is beyond the ability or control of the owner to enable them to voluntarily comply in a timely manner within that period.

All penalties awarded, and all sums recovered, shall accrue to the benefit of the Town. An owner found to have violated this Article shall pay all fees and surcharges assessed or required by the court, and shall pay all court cost and expenses, including attorney's fees, incurred by the Town in the prosecution of said violation.

#### **4-2.6 Waiver Fee**

Any owner who is charged with violating this Article may choose to pay a waiver fee to the Town as an alternative to having the Town proceed with prosecution of the complaint in court. The waiver fee option shall only be available to an owner for a total of three violations. The waiver fee must be received at the Town Office within thirty (30) days following issuance of the summons. Waiver fees that are tendered more than thirty (30) days after issuance of the summons shall only be accepted by the Town upon payment of an additional sum of money equal to any expenses, and fees that have been incurred by the Town in preparation for the court hearing. The waiver fee schedule is as follows:

First violation: \$50.00

Second Violation: \$100.00

Third Violation: \$200.00

#### **4-2.7 Exemptions**

At the exclusive discretion of the Municipal Officers, the Animal Control Officer, a Police Officer, or any other duly appointed agent(s) of the Municipal Officers, the barking of certain dogs may be exempted from this Article, only on an incident by incident basis, including but not limited to: dogs in kennels licensed by the State of Maine under 7 M.R.S.A. §3923-C, livestock guardian dogs, guide dogs,

service dogs, herding dogs, rescue dogs, training dogs, therapy dogs, sled dogs, and hunting dogs, if the complaint was filed by a property owner who was previously duly informed through disclosure per section 4-2.12 of this Article or who obtained through other means that equivalent information prior to purchasing the property. Such discretion is intended to give the above authorities the latitude necessary to determine if and when dog barking associated with kennels and the customary uses and behaviors of specialized dogs is a nuisance.

#### **4-2.8 Severability**

Should any portion of this Article 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 and effect.

#### **4-2.9 Appeals**

Appeal may be made per 17 M.R.S.A. §4-B and M.R.Civ.P.80H. (See section 4-2.5 of this Article).

#### **4-2.10 Mediation**

In cases where citation(s) under this Article involve disputes between abutter(s) and/or or neighbor(s) and the cited individual(s) regarding violations, these parties are advised to retain the services of a mediator listed by the Court Alternative Dispute Resolution Service (CADRES) at their expense to avoid the possibility of lengthy and costly litigation.

#### **4-2.11 Kennels**

Any owner(s) who must obtain and maintain licensing by the State of Maine as a kennel under 7 M.R.S.A. §3923-C, must comply with the Town Zoning Ordinance, which regulates where kennels may be located, and the Town Site Review Ordinance, which regulates approvals for such operations. Those who possess kennel licenses and are in compliance with the Town's Zoning Ordinance are not held harmless and are fully subject to this Article.

#### **4-2.12 Disclosure**

A buyer of a property that abuts a lot upon which there is an existing kennel which is licensed by the State of Maine under 7 M.R.S.A. §3923-C, or upon which there are specialized dogs, including but limited to, livestock guardian dogs, guide dogs, service dogs, herding dogs, rescue dogs, training dogs, therapy dogs, sled dogs, or hunting dogs, must be notified by the owner of the property being sold of the existence of the abutting kennel and/or the presence of any specialized dog(s) on abutting property(s). Those who possess kennel

licenses and/or specialized dogs are not held harmless and are fully subject to this Article.

#### **4-2.13 Amendments**

- A. Initiation of Amendments: An amendment to this Article may be initiated by:
1. The Municipal Officers, provided a majority of the Municipal Officers has so voted; and
  2. Written petition of a number of voters equal to at least ten percent (10%) of the number of votes cast in the municipality at the last gubernatorial election.
- B. Public Hearing: The Municipal Officers shall hold a public hearing on the proposed amendment. Notification of the hearing shall be posted and advertised in a newspaper of general circulation in the municipality at least seven (7) days prior to the hearing.

#### **4-2.14 Effective Date**

The effective date of this Article is March 20, 2010.





