

**TOWN OF NEWMARKET, NEW HAMPSHIRE
By the Newmarket Town Council
Ordinance 2005-06
Section 17.1 Regulation of Dogs**

WHEREAS, Ordinance#96-02 regarding the Regulation of Dogs was passed on April 3, 1996; and

WHEREAS, Ordinance #2004-08 updated Ordinance #96-02, and

WHEREAS, other rules of conduct concerning dogs within the Town of Newmarket have to be addressed.

NOW, THEREFORE, BE IT RESOLVED, that the Newmarket Town Council does hereby ordain to repeal Ordinances #96-02 and 2004-08 Regulation of Dogs and adopt the following ordinance:

**Municipal Code
LC Article 17
Section 17.1 Regulation of Dogs**

Subsection 17.1.1 **Purpose**

This ordinance is designed to regulate the licensing and conduct of dogs.

Subsection 17.1.2 **Definitions of Terms**

As used in this Ordinance, unless the context shall otherwise indicate, the following terms shall be defined as herein set forth:

- At Large: Off the premises or property of the owner while not on a leash of 8' or less, not under the physical control of a responsible person, and/or not confined within a vehicle.
- Dog: Dog shall include both male and female of the canine species. Dog shall also mean any animal, which is considered to be a wolf-hybrid as defined in RSA 466-A.
- Enclosure: Shall be intended to mean any structure, fenced or otherwise, which is secure on all sides, so as to prevent the exiting of the dog or entrance of young children. Said enclosure shall be of a proper size as regulated by State Statute.
- Enforcement Official. Enforcement Official when used herein shall mean any Animal Control Officer, Police Officer, or other individual authorized to enforce the provisions of this chapter and such state statutes pertaining to animals.
- A threatening is an indication of a dog's imminent attack, usually accompanied by the bearing of teeth and the fur on its back standing up. (Guttural threatening sounds made by an angry animal; low

guttural menacing sound as a dog; a deep, angry, throaty noise as of a dog.)

- Owner: Any person, group, association or organization responsible for maintaining, keeping, caring for, harboring or owning a dog.
- Vicious Dog: Shall be intended to mean any dog which snaps at, bites, or chases any person or persons while on foot or on any propelled vehicle. It shall also include any dog, which has attacked any animal, as domestic or wild.

Dogs would only be considered vicious if they attacked an animal causing injury or death. This Ordinance is to supplement RSA 466:36, which authorizes the killing of dogs found in active pursuit. In most cases, the dog leaves the scene without being killed and, therefore, needs to be designated a future danger to the public and other animals.

Subsection 17.1.3

At Large Prohibited

It shall be unlawful for the owner or keeper of a dog to permit a dog so owned or kept, to run at large, as defined herein, except for the following:

1. When the dog is upon the owner's property;
2. When the dog is accompanied by owner or custodian and being used for hunting, herding, supervised competition and exhibition, or;
3. When in actual training for hunting, herding or competition and exhibition;
4. On the premises of the person under whose control the dog is supervised;
5. On the premises of another person as long as that person has given permission for the dog to be at-large;
6. When the dog is in a designated off-leash dog area managed and regulated by the Town of Newmarket.

Subsection 17.1.4

Impounding of Dogs

Any dog found at large and not on the premises or property of the owner and within the Town of Newmarket may be restrained and impounded by the Police Department. A dog so impounded may be confined in a suitable animal shelter for not more than seven (7) days may be humanely disposed in accordance with State Law of New Hampshire by the Newmarket Police Department. The owner must be noticed within 24 hours of impoundment if the dog is licensed.

Subsection 17.1.5

Claiming Impounded Dogs

An owner or individual claiming a dog impounded by the Newmarket Police Department shall pay to the Town of Newmarket a fee of twenty dollars (\$20) for the dog. In the event an animal shelter is used other than a town-owned facility, the owner or individual claiming the dog shall pay shelter fees established by the outside shelter and approved by the Town Administrator.

Subsection 17.1.6. **License and Registration**

The owner of a dog kept, harbored or maintained in the Town of Newmarket, shall license and register the dog as specified in Chapter 466 of the Revised Statutes Annotated of the State of New Hampshire.

Subsection 17.1.7. **Killing Dogs**

Any member of the Newmarket Police Department may kill any dog found in the act of maiming or in close pursuit of deer, caribou, moose, cattle, swine, or poultry. Any dog that is located without proper identification and that is suffering serious injury(ies) or other apparent serious illness may be disposed of forthwith at the discretion of the Newmarket Police Department.

Subsection 17.1.8. **Dogs a Menace, Nuisance or Vicious**

1. It shall be prohibited to allow any dog to be a menace or a nuisance, or vicious to persons or to property under any or all, but not limited to, the following conditions:
 - a. If it runs at large without being controlled by a leash.
 - b. If it barks for sustained periods of more than one-half hour, or during the night hours so as to disturb the peace and quiet of a neighborhood or area.
 - c. If it digs, scratches or defecates on any property other than its owner's;
 - d. While in heat is unconfined (confinement shall mean within an enclosed building area - not accessible to any other dog (s));
 - e. If it growls, snaps at, runs after or chases any person or persons;
 - f. If it runs after or chases bicycles, motor vehicles, motorcycles or other vehicles being driven, pulled or pushed on the streets, highways or public ways;
 - g. If whether alone or in a pack with other dogs, it bites, attacks domestic animals or preys on game animals, fowl or human beings;
2. If the skin of a person has been punctured by a dog and the incident was reported, including the identity of the dog and its owner, to the animal control officer or police officer, such officer shall, within 24 hours, notify the injured person or, in the case of a minor, the minor's parent or guardian, whether, according to town records, the dog has been appropriately immunized against rabies.
3. Any person who fails, by appropriate action including but not limited to restraining an animal from running at large, or otherwise effectively abating a nuisance found such under the provisions of this section, or who fails to comply with any other provisions of this section after being so ordered, shall have the person's dog taken into custody by the Newmarket Police Department and such disposition made of the dog as the court may order.

Subsection 17.1.9. **Removal of Animal Excrement Required**

Any person who owns or is responsible for an animal shall, if the animal defecates upon public property or private property, promptly clean up

and dispose of the excrement. The excrement shall be disposed of in a lawful and sanitary manner.

Subsection 17.1.10 Prohibition in Parks and Commons

No person, firm or corporation shall allow any dog to be present in Town of Newmarket property, conservation parks, or other parklands except for public roads and sidewalks and the following locations:

Dogs are permitted on a leash:

Location / Name	Tax Map	Lot Number
Gonet Drive Open Space	R2	11-25 & 26
Mastin Dr/Follet's Brook Env Educ Area	U1	88
Trotter Park/Carolyn Dr Open Space	U1	96 & 97
Cedar St / Next to Railroad	U2	114 & 115
Piscassic Street Boat Launch & Park	U2	124
Riverbend Park, Education, and Access Areas	U1	1-(1A, 1-P & 4-P)

Dogs are permitted off a leash:

Location / Name	Tax Map	Lot Number
Town Land - Lita Lane / Pembroke Drive / Hersey Lane	R3	30-10, 30-19 thru 36 & 30-47
Loiselle Parcel - Route 152 / Piscassic River	R5	91-2
Wadleigh Falls Rd (Route 152) Tuttle Swamp North	R6	38 - 40
Wiggin Farm, Tuttle Swamp Conservation - Grant Road	R6	21, 21A, & 21B
Young's Lane Town DPW Facility	U3	48-50

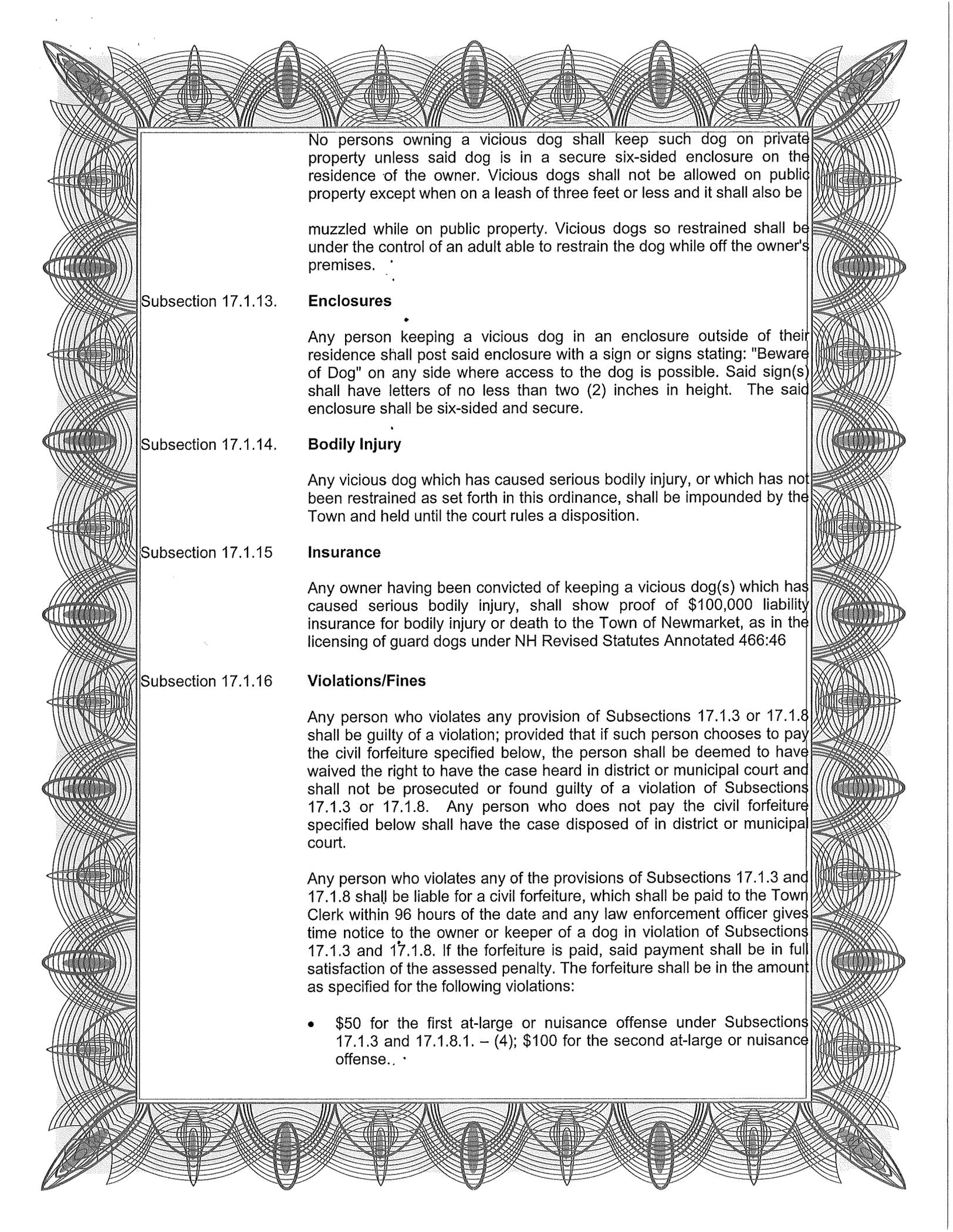
No person shall allow any dog to be in any area in any park in which the Recreation Department holds scheduled programs or park/conservation area except as listed above.

Subsection 17.1.11 Enforcement Procedure

The enforcement of this Chapter shall be the responsibility of the Newmarket Police Department. The Newmarket Police Department may issue complaints alleging violations of this ordinance.

Any person or persons who hinders, interferes with, obstructs or uses abusive or profane language against any enforcement official when in the course of their duties shall be in violation of this ordinance and subject to a penalty of \$100.00.

Subsection 17.1.12 Vicious Dogs



No persons owning a vicious dog shall keep such dog on private property unless said dog is in a secure six-sided enclosure on the residence of the owner. Vicious dogs shall not be allowed on public property except when on a leash of three feet or less and it shall also be

muzzled while on public property. Vicious dogs so restrained shall be under the control of an adult able to restrain the dog while off the owner's premises.

Subsection 17.1.13. **Enclosures**

Any person keeping a vicious dog in an enclosure outside of their residence shall post said enclosure with a sign or signs stating: "Beware of Dog" on any side where access to the dog is possible. Said sign(s) shall have letters of no less than two (2) inches in height. The said enclosure shall be six-sided and secure.

Subsection 17.1.14. **Bodily Injury**

Any vicious dog which has caused serious bodily injury, or which has not been restrained as set forth in this ordinance, shall be impounded by the Town and held until the court rules a disposition.

Subsection 17.1.15 **Insurance**

Any owner having been convicted of keeping a vicious dog(s) which has caused serious bodily injury, shall show proof of \$100,000 liability insurance for bodily injury or death to the Town of Newmarket, as in the licensing of guard dogs under NH Revised Statutes Annotated 466:46

Subsection 17.1.16 **Violations/Fines**

Any person who violates any provision of Subsections 17.1.3 or 17.1.8 shall be guilty of a violation; provided that if such person chooses to pay the civil forfeiture specified below, the person shall be deemed to have waived the right to have the case heard in district or municipal court and shall not be prosecuted or found guilty of a violation of Subsections 17.1.3 or 17.1.8. Any person who does not pay the civil forfeiture specified below shall have the case disposed of in district or municipal court.

Any person who violates any of the provisions of Subsections 17.1.3 and 17.1.8 shall be liable for a civil forfeiture, which shall be paid to the Town Clerk within 96 hours of the date and any law enforcement officer gives time notice to the owner or keeper of a dog in violation of Subsections 17.1.3 and 17.1.8. If the forfeiture is paid, said payment shall be in full satisfaction of the assessed penalty. The forfeiture shall be in the amount as specified for the following violations:

- \$50 for the first at-large or nuisance offense under Subsections 17.1.3 and 17.1.8.1. – (4); \$100 for the second at-large or nuisance offense.

- \$50 for the first menace offense under Subsection 17.1.8.5 or 17.1.8.6; \$100 for the second or subsequent menace offense committed within 12 months of the first menace offense under Subsection 17.1.8.5 or 17.1.8.6.
- \$200 for the first vicious offense under Subsection 17.1.8.7; \$400 for the second vicious offense.

Any person, who pays a civil forfeiture specified above 2 times in any 12-month period according to the records of the Town Clerk, may not pay a civil forfeiture for subsequent violations of Subsection 17.1.8. in that 12-month period, but shall have those case disposed of in district or municipal court. In the case of a vicious dog, as described by Subsection 17.1.12, where its behavior presents a threat to public safety, immediate District Court or Municipal Court proceedings may be initiated in lieu of the civil forfeiture.

Subsection 17.1.17 Penalties

A person, firm or corporation who violates any provisions of this code (excluding Subsection 17.1.3 or 17.1.8) shall be punished by a fine of not more than one hundred (\$100) dollars for each offense.

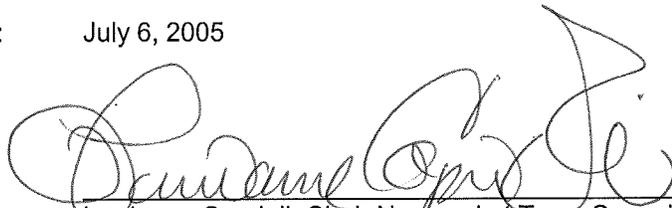
All paragraphs except 17.1.6 shall not be applicable to service dogs.

Subsection 17.1.18 Separability of Provisions

Each provision of this Ordinance shall be deemed independent of all other provisions herein, and if any provision of this Ordinance is declared invalid, all other provisions shall remain valid and enforceable.

Introduction Date: June 1, 2005
 Public Hearing: June 1, 2005
 Second Public Hearing: July 6, 2005
 Final Action by Council: July 6, 2005

Approved:


 Lorraine Caprioli, Chair Newmarket Town Council

A True Copy Attest:


 Becky I. Benvenuti, Town Clerk

