

VLCT VICIOUS DOG OR DOMESTIC PET BITE HEARINGS FAQs

What is a “domestic pet”?

A “domestic pet” means any domestic dogs, domestic cats, and ferrets. [20 V.S.A. § 3541](#)

When is a legislative body (selectboard, city council, village trustees, etc.) required to hold a vicious dog or domestic pet bite hearing?

Under state law, a legislative body is only required to hold a vicious dog or domestic pet hearing when all four of the following key elements have been satisfied: 1) a dog or domestic pet has bitten a person; 2) while the dog or domestic pet is off the premises of the owner or keeper 3) the person bitten requires medical attention for the attack and; 4) the person bitten files a written complaint with the legislative body of the municipality. [20 V.S.A. § 3546](#). The complaint must include the time, date, and place where the attack took place, the name and address of the victim(s), and any other facts that could aid in the legislative body’s investigation. Legislative bodies should follow up with complainants when this information is incomplete and inform them that, absent the required information, the request for a hearing cannot be honored.

What if a person is bitten but it occurs on the premises of the owner or keeper of the dog/domestic pet?

In that case, the legislative body is not required to hold a vicious dog or domestic pet hearing. Some municipalities, however, have ordinances that regulate bites that occur on premises, too, in which case the legislative body should follow their ordinance. Regardless of where the bite occurred, the town health officer should be contacted to investigate suspected exposure to rabies.

What constitutes the “premises of the owner or keeper?” For example, if a person was bitten by a dog or domestic pet sitting in the owner’s vehicle in a public parking lot and the victim required medical attention and filed a written complaint, does the legislative body have to hold a “vicious” dog /domestic pet hearing?

The controlling statute requires that the legislative body must investigate the complaint and hold a hearing when a dog or domestic pet has “bitten a person while the domestic pet or animal or wolf-hybrid is off the premises of the owner or keeper . . .” and such person files a complaint with the legislative body. The law refers to the owner or keeper’s “premises” not “property” and, legally, there is a difference. Black’s Law Dictionary defines “premises” as “(a) house or building, along with its grounds.” This is different from the broader term “property” which is defined as “(a)ny external thing over which the rights of possession, use, and enjoyment are exercised.” Black’s Law Dictionary (7th ed. 1999). This distinction is important. If a person was bitten by a dog sitting in its owner’s vehicle in a public space, the vehicle - while *property* - is not considered *premises* in the eyes of the law. Consequently, such a dog would be considered “off the premises of the owner” and a hearing would be required assuming all the other elements are satisfied.

Notably, the Legislature made no distinction between a dog or domestic pet that is “off the premises” of its owner and a dog or domestic pet that is running-at-large with respect to bites. For example, a dog is considered “off the premises” of its owner when it is taken for a walk regardless of whether it is on or off a leash, under the owner’s verbal command, or in or outside the owner’s vehicle. Whether or not the dog was running-at-large when it bit someone doesn’t factor into the analysis of whether a “vicious” dog or domestic pet hearing must be held. The phrasing “off the premises of the owner” informs us that the Legislature was primarily concerned with how dogs/domestic pets behave in public, not with how they behave while on the private premises of their owners.

What about if a dog or domestic pet bites someone on the owner’s rental property (e.g. common areas to an apartment complex, campsite in a public campground, etc.)?

Because the dog/domestic pet’s owner is renting the property, it means they have a leasehold interest regardless of the duration of its term. This interest would likely suffice as establishing it as the “premises of the owner or keeper.” This incident is more closely aligned to the dog or domestic pet biting a trespasser. Consequently, the legislative body should consider the animal “on” the premises of its owner, not “off,” and would not have to conduct a hearing in such an instance.

What if a person’s dog or domestic pet leaves their property and attacks another person’s dog or domestic pet or animal? Does the legislative body have to hold a vicious dog hearing then?

No, not under state law, because the requirement to hold such a hearing only applies when a person, not another dog or domestic pet or animal, is bitten. State law does authorize the impoundment of such dogs/domestic pets for running-at-large, if applicable, but otherwise a vicious dog or domestic pet hearing would only need to be held under those circumstances if required under the municipality’s dog/animal control ordinance.

We have seven (7) days from receipt of a written complaint to open a vicious dog or domestic pet hearing. Can the time be extended by mutual consent of the parties involved?

For example, if the owner of the dog or domestic pet or complainant is not available, can they agree to waive and extend this timeframe?

Strictly speaking, probably not, although there has been no Vermont Supreme Court case that addresses this question. As a Dillon’s Rule state, municipalities only have the authority that’s been provided them by the Legislature. The 7-day timeframe is imposed by statute and the statute does not permit the timing of the hearing to be subject to agreement or change by the parties. Therefore, we do not think it is subject to extension by their mutual consent. Keep in mind that the immediacy of the hearing is to respond to a potential public health hazard posed by the dog or domestic pet subject to the complaint.

The preferable course of action in this situation would be to have the legislative body open the hearing within the requisite 7-day timeframe and continue the hearing (by motion) to a date, time, and place certain in the not-too-distant future. Note that the law does not require attendance of either of these parties at the hearing, just that notice be provided to the dog or domestic pet owner. Technically, while the legislative body can proceed with the hearing without their attendance, continuing to a date, time, place to allow for their participation will potentially provide the legislative body with a more complete picture of what transpired and greater insight into how best to address the situation.

Does the vicious dog or domestic pet hearing notice need to be sent via certified mail? What if individuals refuse to pick up certified mail or “dodge” the notice? Is there an alternative, such as attaching notice to the dog or domestic pet owner’s door?

The law does not require notice to be sent via certified mail, nor does it require proof of receipt (i.e. actual notice). We recommend this method as a best practice to document proof of delivery/receipt. The law simply requires notice to be sent to the dog or domestic pet owner. This can be documented by keeping a copy of the notice with a notation of when it was mailed or hand-delivered, along with the issuing officer’s initials, for the file. Even if the mailing was refused or “dodged,” so long as the notice was delivered within the requisite 7-days, then the statutory requirement would have been satisfied.

Can the legislative body choose to hold a vicious dog or domestic pet hearing without receiving a written complaint?

Only if the voters enable them to do so. State law authorizes legislative bodies to regulate dogs/domestic pets by ordinance in a manner that is inconsistent with state law if the town so votes, pursuant to [20 V.S.A. § 3546\(e\)](#). Otherwise, the law requires all four elements to be satisfied (1. dog bite; 2. off the owner or keeper’s premises; 3. medical attention required; and 4. complaint filed) before the legislative body can (must) hold a vicious dog or domestic pet hearing. Failure to follow this law without another basis for holding the hearing could risk the decision and protective order being challenged and deemed unenforceable in a court of law.

What does the legislative body do at the vicious bite hearing?

The hearing has two principal objectives: 1) determining whether the dog or domestic pet bit the victim without provocation; and 2) rendering a protective order commensurate with the facts and circumstances of the case.

The legislative body’s first objective is to find out whether the dog or domestic pet bit the victim without provocation. This should be revealed easily enough through testimony and other evidence, such as asking the victim and any available witnesses questions surrounding how the attack occurred. The legislative body, considering the relevant and credible evidence and testimony, next determines whether the dog or domestic pet was provoked. Whichever way it finds, it would state so in its written opinion.

If the legislative body determines that the dog or domestic pet was unprovoked, then its second objective is to determine what measure(s) it should impose to protect the public from the animal. The measures imposed must be warranted by “the facts and circumstances of the case...” The imposition of this next level of inquiry necessitates additional fact finding on behalf of the legislative body. Failure to fit the punishment to the crime increases the likelihood that its decision will be appealed and its protective order vacated or modified.

Ultimately, the legislative body performs its due diligence by ensuring its protective order, if applicable, emanates from the facts and circumstances of the particular case before it, is reasonably related to protecting the public safety, and is fair to the dog or domestic pet and its owner.

What happens to the dog or domestic pet during the hearing?

It depends on the facts of the alleged bite. One option is that the animal is impounded pending the duration of the hearing and issuance of the legislative body’s decision. Alternatively, the animal control officer or the ordinance’s enforcement officer could order the owner to keep the dog or domestic pet on the owner’s premises until the hearing has been resolved. The municipality may also seek assistance from the humane society for other options. The options available to the municipality will largely depend on what its animal/dog control ordinance says. If the dog is already in the municipality’s possession, then it should have a provision in its ordinance that it will not be released (if at all) until the final disposition of the vicious dog or domestic pet hearing, until all penalties and impoundment fees have been paid, and until after all necessary remedial action has been taken.