

**TOWN OF DERBY
ORDINANCE REGULATING THE KEEPING AND
CONTROL OF DOGS AND OR WOLF HYBRIDS
WITHIN THE TOWN OF DERBY, VERMONT**

Pursuant to the provisions of Title 24, Chapter 59, Title 24, Section 2291 (10), (14), and (15); and Section 3549 of Title 20 Vermont Statutes Annotated, it is hereby ordained by the Town of Derby, Vermont that the protection of the health, safety and well being of the residents of the Town of Derby and the general public requires the establishment of regulations governing the keeping and control of dogs within the Town of Derby.

ARTICLE I - PURPOSE

SECTION 1 - This ordinance is adopted for the health, safety, and welfare of the citizens of the Town of Derby.

ARTICLE II - DEFINITIONS

SECTION 1 - "Dog" shall include male and female canine species and shall include animals kept as pet, for breeding, or otherwise that are part canine or part other species, including wolf hybrids. However, the inclusion within the definition of breeds that are only partly canine is not intended to and does not vary or lessen any restrictions that are now imposed or may be imposed in the future on such mixed breeds by state stature.

SECTION 2 - "Owner" shall mean any person, firm, association, corporation, organization or entity (person or entity) possessing or having the care and custody of or harboring a dog or wolf hybrid. In the event ownership is not claimed by any person or entity, the Owner shall be the person or entity in actual possession of he premises on or in which the dog is kept within the town.

SECTION 3 - "At Large" shall mean off the premises of the owner and not in the presence of and under the control of the owner, a member of the owner's immediate family and/or agent of the owner. Under control shall mean that at all times the dog is prevented from causing injury, damage, disturbance or annoyance of any kind. A dog on a leash shall be deemed under control.

SECTION 4 - "Pound" shall mean any kennel, pound or other facility for holding or housing dogs which is designated by the Select Board and regardless of whether such facility is operated by the Town or within the Town limits.

SECTION 5 - "Enforcement Official" shall mean any Animal Control Officer, Constable, Police officer, Sheriff or Deputy Sheriff, State Police Officer, Game Warden or any person appointed Enforcement Official by the Select Board to enforce the provisions of this ordinance. A person appointed as an Enforcement Official by the Select Board may be a private contractor or resident of another town.

SECTION 6 - "Vicious Dog" shall include:

- 6.1 Any dog which without provocation, attacks or bites or has attacked or bitten, a human being or domestic animal or
- 6.2 Any dog which without provocation, reasonably places a person in fear of being attacked or bitten while the dog is off the premises of the owner or
- 6.3 Any dog with a known propensity, tendency or disposition to attack unprovoked, to cause injury to, or otherwise threaten the safety of human beings or domestic animals or

- 6.4 Any dog which because of its size, physical nature or vicious propensity is capable of inflicting serious physical harm or death to humans and which would constitute a danger to human life or property if it were not kept in the manner required by this ordinance.
- 6.5 Any dog owned or harbored primarily or in part for the purpose of dog fighting or any dog trained for dog fighting.
- 6.6 "Rabies Suspect" shall mean any warm-blooded animal whose actions are inconsistent with normal behavior. Failure to provide documentation of valid rabies vaccination shall be presumptive evidence of a rabies suspect.

ARTICLE III - DOG LICENSE REQUIRED

SECTION 1 - License Required – All dog owners shall be required to annually register and license each dog in the manner prescribed by the Town and pursuant to applicable State statute (April 1st of any given year).

SECTION 2 - Rabies Vaccination Required – In addition to any other licensing requirements required by State statute all owners shall be required to demonstrate proof of current rabies vaccination as a prerequisite to obtaining a license.

SECTION 3 - License and Rabies Tags to be Worn – All owners shall be required to attach a collar or harness on any dog that may be off the premises of the owner a current license tag issued by the Town and a current rabies vaccination tag.

ARTICLE IV - GENERAL PROVISIONS

SECTION 1 - All rules and regulations contained herein, together with such amendments as may be hereinafter adopted are hereby designated as the **ORDINANCE REGULATING THE KEEPING AND CONTROL OF DOGS AND/OR WOLF HYBRIDS WITHIN THE TOWN OF DERBY, VERMONT**, hereinafter referred to as the **ORDINANCE**.

SECTION 2 - In the event any provision of this **ORDINANCE** shall conflict with any other applicable regulation, rule, by-law, ordinance or statute of the Town of Derby, the State of Vermont or the United States of America, the more restrictive provision shall apply.

ARTICLE V - RESPOSNIBILITIES OF THE KEEPERS OF DOGS AND/OR WOLF HYBRIDS

SECTION 1 - No person shall permit a dog owned by or under the keeping and control of said person, to be at large within the Town of Derby.

SECTION 2 - No person shall permit a dog owned by, or under the keeping or control of said person, to be beyond the control of such person on any street, sidewalk, park or other public property within the Town of Derby.

SECTION 3 - No person shall permit a dog owned by, or under the keeping or control of said person, to disturb the peace and quiet of any other person by excessive barking, excessive biting, howling or by any such means.

3.1 Exceptions:

- a. Any event such as dog shows, sled dog racing, or dogs that are hunting with a Vermont Licensed hunter shall be exempt.
- b. Any dog who is provoked by another animal, person, machinery, or unnatural event shall be exempt.

- c. Any situation that is not already mentioned if the Enforcement Official handling the case believes to be necessary shall be exempt.

SECTION 4 - No person shall purposely and neglectfully abandon a dog owned by, or under the keeping or control of said person.

ARTICLE VI - VICIOUS DOGS

SECTION 1 - Complaint – Any animal control officer, law enforcement officer, legal resident or property owner of the Town, upon knowledge that a dog is vicious, may file a written complaint with the Select Board. The complaint shall contain the name and address of the complaining resident, the time, date and place where any attack(s) occurred, and the name and address of any victim(s), or the complete facts upon which the complaint is based, any other fact that may assist the Select Board and all information known to them about the owner of the vicious dog and the owner's location and address.

SECTION 2 - Hearing – The Select Board within (21) days from receipt of such complaint shall hold a hearing on the matter. If the owner of the dog which is the subject of the complaint can be ascertained with due diligence, said owner shall be provided with written notice by United States mail, first class, postage prepaid of the date and place of the hearing and be provided with a copy of the complaint or with actual oral notice at least three business days before hearing. The Select Board may, but is not obligated to, investigate the complaint itself, or through an agent.

SECTION 3 - Order – If the dog is determined to be a vicious dog as defined in this ordinance then the Select Board may make such order for the protection of persons as the facts and circumstances of the case may require including without limitation that the dog be disposed of in a humane manner, muzzled, chained, confined or relocated. The order shall be sent by certified mail, with return receipt requested, to the owner of the dog at the owner's last known address.

ARTICLE VII - PENALTIES

SECTION 1 - A violation of this ordinance shall be a civil matter enforced in accordance with the provisions of 24V.S.A Section 1974a and Sections 1977 et seq. For enforcement purposes, the issuing municipal officials are the Enforcement Officials defined in Article II, section 5.

SECTION 2 - Except as specified below, a written warning shall be sent to the dog's owner for the first violation of this ordinance. A civil penalty of not more than \$100.00 may be imposed for the second offense within a six-month period. The penalty for each subsequent offense within a six-month period shall be \$200.00. The waiver fee shall be set at \$50.00 for the second offense within a six-month period and \$75.00 for each subsequent offense within a six-month period. Each day the violation continues shall constitute a separate violation of this ordinance.

SECTION 3 - If a vicious dog attack occurs off the owner's premises a civil penalty of not more than \$100.00 may be imposed for the first offence. The penalty for each subsequent offense within the life of the dog shall be \$300.00. The waiver fee shall be set at \$50.00 for the first offense and \$150.00 for each subsequent offense.

SECTION 4 - A civil penalty of not more than \$300.00 may be imposed for each offense when a dog is purposely and neglectfully abandoned. The waiver fee shall be set at \$150.00 for each offense.

SECTION 5 - The Select Board may also elect to enforce any order issued under this ordinance, or to prohibit any acts in violation of this ordinance, by petition for injunctive relief.

ARTICLE VIII - CONFINEMENT AND IMPOUNDMENT

SECTION 1 - Pursuant to 20 VSA Chapters 191 and 193, an Animal Control Officer is authorized to confine or impound any domestic pet, domestic animal or wolf hybrid which is violating this Ordinance or which

- 1.1 Is suspected of having been exposed to rabies; or
- 1.2 Is believed to have been attacked by another animal which may be rabid; or
- 1.3 Has been attacked by a wild animal; or
- 1.4 Has an unknown rabies vaccination history.

SECTION 2 - In the event that a domestic pet, domestic animal, or wolf-hybrid is confined or impounded, the owner, if known shall be notified within 24 hours. Notification may be accomplished by in person communication, by telephone call or by written statement sent to the last know address of the owner. If the owner's address is not known, notification shall be posted in the Derby Town Clerk's Office and two other public places in the town for a five (5) day period.

SECTION 3 - When an Animal Control Officer reasonably suspects that a confined or impounded domestic pet, domestic animal or wolf-hybrid;

- 3.1 Has been exposed to rabies or
- 3.2 Has been attacked by a rabid animal

the animal Control Officer may dispose of the animal in a humane way in accordance with the Vermont Department of Health's guidelines regarding rabid animals.

SECTION 4 - If the domestic animal or wolf hybrid is not reclaimed by its owner within five (5) days, or if the owner is not determined in this time, that animal shall be deemed abandoned and become the property the Town of Derby. This animal may then be sold, given to a shelter, given out to be adoption, or euthanized after a period of five (5) days. If euthanasia is required, is shall be completed by a licensed Veterinarian.

SECTION 5 - Any dog impounded under the provisions of this ordinance shall be released only on payment of a \$25.00 impoundment fee; provided, however that any dog impounded for the second time in any calendar year shall be released only on payment of a \$50.00 impoundment fee, and if impounded three or more times within a 24 month period, it shall be released only upon payment of a \$100.00 impoundment fee.

SECTION 6 - In addition to the impounding fees charged herein, there shall be a boarding charge of \$19.00 for each day or fraction thereof during which the dog is impounded.

SECTION 7 - The Board of Selectmen is hereby empowered to increase the impoundment fees and boarding charges provided for in this section by appropriate resolution. The Board of Selectmen may make such increases in said fees and charges as they deem appropriate and necessary from time to time.

ARTICLE IX - VALIDITY

SECTION 1 - All existing Town of Derby ordinances or parts of ordinances in conflict herewith are hereby repealed.

In accordance with the provisions of Title 24, Section 1973, Vermont Statutes Annotated, an ordinance adopted by a municipality may be disapproved by a vote of a majority of the qualified voters of the municipality voting on the question, at an annual or special meeting duly warned for the purpose, pursuant to the petition signed by not less than five percent (5%) of the qualified voters of the municipality and presented to the legislative body or the clerk of the municipality within forty-four (44) days following the date of the adoption of the ordinance by the legislative body.

SECTION 2 - The invalidity of any section, clause, sentence or provision of this Ordinance shall not affect the validity of any other part of this Ordinance which can be given effect without such invalid part or parts.

SECTION 3 - The Ordinance may be amended from time to time by the Town of Derby as provided by law.

ARTICLE X - ORDINANCE IN FORCE

SECTION 1 - This Ordinance shall be in full force and effective sixty (60) days from the date of its adoption unless a petition is filed in accordance with Title 24, Section 1973, Vermont Statutes Annotated in which case the effective date shall be as governed by Title 24, Section 1973(c), Vermont Statutes Annotated.

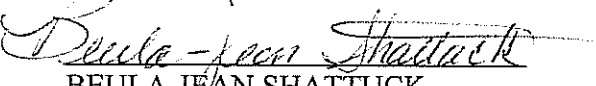
ARTICLE XI - REPEAL

SECTION 1 - The existing TOWN OF DERBY ORDINANCE REGULATING THE KEEPING AND CONTROL OF DOGS AND OR WOLF HYBRIDS WITHIN THE TOWN OF DERBY, VERMONT with all amendments thereto are repealed as of the effective date of this ordinance.

The within and foregoing Ordinance was adopted, pursuant to law by the Town of Derby Select Board on July 25, 2011.


TOWN OF DERBY SELECT BOARD


BRIAN SMITH


BEULA-JEAN SHATTUCK

LAURA DOLGIN


STEPHEN GENDREAU


KAREN JENNE