

TOWN OF DERBY ORDINANCE REGULATING DOMESTIC ANIMALS

SECTION 1. AUTHORITY. This Ordinance is adopted by the Town of Derby under authority of 24 V.S.A. §§ 2291(14), (15), and (30), and 24 V.S.A. Chapter 59.

SECTION 2. The purpose of this Ordinance is to promote the health, safety, and welfare of the citizens of the Town and to preserve the quiet enjoyment of their property through the abatement of public nuisances associated with the keeping of Domestic Animals, including, but not limited to: the significant danger they pose to the traveling public and the damage they can cause to private and public property when running-at-large; their ability to produce noise detrimental to the quiet enjoyment of life, property, and the conduct of business; and the risk they pose of transmitting communicable diseases to people and other animals, when not properly confined.

SECTION 3. For purposes of this Ordinance, the following words and phrases will apply:

- A. "Domestic Animal" means "livestock" as defined in this section, poultry, pheasant, Chukar partridge, Coturnix quail, psittacine birds, ratites (ostriches, rheas, and emus), and water buffalo.
- B. "Domestic Pet" means any domestic dogs, domestic cats, and ferrets.
- C. "Enforcement Officer" means any Town Constable, Police Officer, Animal Control Officer, Humane Officer, or any other person designated as an Enforcement Officer by the Selectboard.
- D. "Impoundment" means to seize and take legal custody of a Domestic Animal by the Town at a place designated by the Selectboard. Such a place may or may not be operated by the Town and may or may not be within the geographic boundaries of the Town.
- E. "Impoundment Expenses" means any and all costs incurred by the Town related to the initial capture, impoundment, and eventual release, transfer, sale, or humane disposition of a Domestic Animal. These costs may include, but are not limited to, Enforcement Officer charges and fees; costs associated with the capture, impoundment, transportation, boarding, feeding and care of an impounded Domestic Animal; veterinary expenses deemed reasonably necessary to the life or health of the Domestic Animal or any other animals with which they may interact while impounded; compensation for any repairs or damage done by the Domestic Animal to Town property; and all costs associated with providing personal and public notice pursuant to this Ordinance.
- F. "Livestock" means cattle, horses, sheep, swine, goats, camelids, fallow deer, red deer, reindeer, and American bison.

- G. "Owner" means any person who has actual or constructive possession of a Domestic Animal.
- H. "Public way" means a right-of-way held by a municipality, including a town highway.
- I. "Remedial Action" may include, but is not limited to, such actions as payment of all applicable fines or waiver fees, and Impoundment Expenses; taking necessary measures such as repairing fences, gates, corrals, paddocks, wiring, pens, or other structures as needed to adequately confine Domestic Animals to the Owner's property; permanent forfeiture of the impounded Domestic Animal; and/or the temporary or permanent forfeiture of the right to keep any Domestic Animal within the geographical boundaries of the Town.
- J. "Running-At-Large" means that a Domestic Animal found or being on any public land or Public Way, or land belonging to a person other than the owner of the Domestic Animal, without the landowner's permission.

SECTION 4. PROHIBITED NUISANCES. The Owner of a Domestic Animal may not allow, permit, or suffer such animal to create a nuisance. The following activities are hereby deemed nuisances:

- A. Nuisance One: Disturbing The Peace
A Domestic Animal that disturbs the quiet, comfort and repose of others by bellowing, bleating, braying, calling, clucking, crowing, crying, honking, howling, neighing, whining, or making some other noise for a continuous period of 30 minutes or more.
 - 1. Exemptions. This prohibition does not apply to any person raising, feeding, or managing at least the number of adult Domestic Animals as specified in Section 3.1(d) of the State of Vermont's Required Agricultural Practices Rule on a farm that is no less than four (4.0) contiguous acres in size.
- B. Nuisance Two: Running At Large
A Domestic Animal Running-At-Large in Town.
- C. Nuisance Three: Failure To Remove Waste
A Domestic Animal that defecates in any public area or on the private premises of another person in Town and whose Owner does not immediately remove the fecal material and dispose of it in a sanitary manner.
- D. Nuisance Four: Damage To, or Interference With, The Property of Another
A Domestic Animal that, while Running-At-Large, damages the property (public or private) of any other than its Owner, including, but not limited to, eating or damaging lawns, gardens, flowers, plants, vegetables, fruits; turning over garbage containers; causing damage to real or personal property; or injuring, worrying, mating, or attempting to mate with another Domestic Animal, or Domestic Pet.

SECTION 5. A violation of this Ordinance is a civil matter which may be enforced in the Vermont Judicial Bureau or in the Orleans County Superior Court, at the election of the Enforcement Officer.

Violations enforced in the Judicial Bureau will be in accordance with the provisions of 24 V.S.A. §§ 1974a and 1977 et seq. For purposes of enforcement in the Judicial Bureau, any Enforcement Officer has the authority to issue tickets and represent the Town at any hearing.

Violations enforced in the Superior Court will be in accordance with the Vermont Rules of Civil Procedure. The Town may pursue all appropriate injunctive relief.

SECTION 6. PENALTIES AND COSTS. The Enforcement Officer is authorized to recover civil penalties for violations of this Ordinance in the following amounts for each violation:

- A. Nuisance One: Disturbing The Peace:
 - 1st Offense: warning or \$50 fine Waiver Fee: \$25
 - 2nd Offense: \$100 fine Waiver Fee: \$50
 - 3rd & Subsequent Offense: Impoundment and/or \$200 fine Waiver Fee: \$100

- B. Nuisance Two: Running-At-Large:
 - 1st Offense: warning or \$50 fine Waiver Fee: \$25
 - 2nd Offense: \$100 fine Waiver Fee: \$50
 - 3rd & Subsequent Offense: Impoundment and/or \$200 fine Waiver Fee: \$100

- C. Nuisance Three: Failure To Remove Waste:
 - 1st Offense: warning or \$50 fine Waiver Fee: \$25
 - 2nd Offense: \$100 fine Waiver Fee: \$50
 - 3rd & Subsequent Offense: Impoundment and/or \$200 fine Waiver Fee: \$100

- D. Nuisance Four: Damage To, or Interference With, The Property of Another
 - 1st Offense: warning or Impoundment and/or \$100 fine Waiver Fee: \$50
 - 2nd Offense: Impoundment and/or \$200 fine Waiver Fee: \$100
 - 3rd & Subsequent Offense: Impoundment and/or \$300 fine Waiver Fee: \$150

- E. The Enforcement Officer is authorized to recover a waiver fee in lieu of a civil penalty, in the stated amount, from any person who declines to contest a municipal complaint and pays the waiver fee.

- F. Determining the sequences of offenses for violations of this Ordinance will be as follows: a subsequent violation that is identical to, and that occurs within 12 months of, a previous violation will be considered a higher offense (i.e., second, third, or subsequent offense). Any subsequent identical violation that occurs after 13 months of a previous identical violation will be considered a new first offense.

- G. For the purpose of calculating the sequence of offenses, offenses will be counted against the Owner, not the Domestic Animal.

- H. A warning will not be counted towards the calculation of the number of offenses under this Ordinance.
- I. The Enforcement Officer may only impose the temporary or permanent forfeiture of a Domestic Animal and/or the right to keep a Domestic Animal on their property in Town as a Remedial Action if its Owner has violated the provisions of this Ordinance 3 times, whether the offenses are identical or not, within a 12 month period. Any Domestic Animal so impounded may be sold at public auction, transferred to a humane society or rescue organization, or humanely destroyed.

SECTION 7. IMPOUNDMENT.

- A. Grounds For Impoundment.
 - 1. Any Domestic Animal may be immediately impounded if the animal is found Running-At-Large;
 - 2. Any Owner who has violated this Ordinance 3 times, whether the offenses are identical or not, within a 12 month period, subjects their Domestic Animal(s) to immediate Impoundment.
- B. Notice Of Impoundment. The Enforcement Officer who impounds a Domestic Animal must, within twenty-four (24) hours, give notice to its Owner, either personally or by written notice left at their dwelling. Such notice must inform the Owner of the nature of the violation(s), the current location of the Domestic Animal, and the necessary steps to have it returned to the Owner.

If the Owner of the Domestic Animal is unknown, the Enforcement Officer who impounds such animal must, within forty-eight (48) hours of Impoundment, post notice in or near the Town Clerk's office in the town in which the animal was impounded and provide notice of the same to the Town Clerks of two adjoining towns for public posting. The notice must describe the animal and state when and where it was impounded and be posted for a thirty (30) calendar day period. The public notice must also declare that, unless the Owner: 1) claims the Domestic Animal, 2) pays all Impoundment Expenses and any applicable penalties, and 3) takes all necessary Remedial Action; or 4) appeals the Impoundment of the Domestic Animal and/or conditions for its release within thirty (30) calendar days following posting, the Town may sell the same at public auction; transfer it to a humane society or rescue organization; or have the animal humanely destroyed.

- C. Appeal of Impoundment. The Owner of an impounded Domestic Animal may request a hearing before the Selectboard to appeal the Impoundment of their animal(s) and/or any conditions for their release, by filing a written notice of appeal with the Selectboard within thirty (30) calendar days following posting of the notice of Impoundment. The Selectboard must hold a hearing on the matter within fourteen (14) calendar days of receipt of the request. The Owner of the impounded animal will be provided with a written notice of the time, date, and place of the hearing at which they will be afforded an opportunity to be heard. The Selectboard

will conduct deliberations in private and state its decision, with reasons, in writing, to be sent to the Owner within thirty (30) calendar days of the close of the hearing.

- D. Release From Impoundment. Impounded Domestic Animals will be released to the Owner only after payment of all penalties and Impoundment Expenses, the final disposition of an Impoundment appeal hearing before the Selectboard, if applicable, and after all Remedial Action, as determined by the Enforcement Officer to be necessarily related to preventing the same violation from reoccurring, is taken by the Owner.

An Enforcement Officer may only release a Domestic Animal impounded for Running-At-Large resulting from want of a secure enclosure, to its Owner if, after inspection of the premises where the impounded animal will be kept, they are reasonably assured that all necessary Remedial Action has been taken to prevent the animal from Running-At-Large in the future.

If the Owner of a Domestic Animal impounded under the provisions of this Ordinance refuses to take the Remedial Action necessary to secure the Domestic Animal's release within thirty (30) calendar days following notice of Impoundment without filing for an appeal of the Impoundment with the Selectboard, or gives notice either personally, by telephone, or in writing to the Town that they relinquish ownership of the animal before that time, the Domestic Animal will be considered forfeited and may be sold by the Town at public auction; transferred to a humane society or rescue organization; or humanely destroyed. The Owner of a forfeited Domestic Animal will remain liable to the Town for all Impoundment Expenses.

- E. Notice of Public Auction. The Town may sell a Domestic Animal at public auction, after six (6) calendar days' public notice posted in or near the Town Clerk's office and in at least two other designated public places in Town.
- F. Excess Auction Proceeds. The proceeds of the sale by the Town of any impounded Domestic Animal at public auction will be applied to the payment of any Impoundment Expenses. The balance, if any, will be paid to the Treasurer of the Town in which the animal was impounded, to the use of the Owner, if demanded within one year, otherwise to the use of the Town.

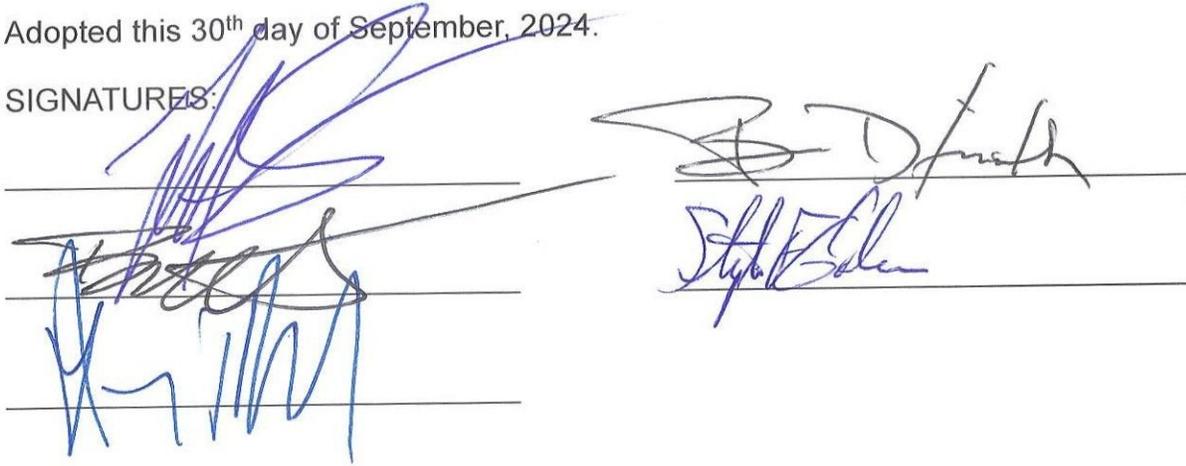
SECTION 8. OTHER LAWS. This Ordinance is in addition to all other ordinances of the Town of Derby and all applicable laws of the State of Vermont. All ordinances or parts of ordinances, resolutions, regulations, or other documents inconsistent with the provisions of this Ordinance are hereby repealed to the extent of such inconsistency.

SECTION 9. If any section of this Ordinance is held by a court of competent jurisdiction to be invalid, such finding will not invalidate any other part of this Ordinance.

SECTION 10. EFFECTIVE DATE. This Ordinance will become effective 60 days after its adoption by the Selectboard. If a petition is filed under 24 V.S.A. § 1973, that statute will govern the taking effect of this Ordinance.

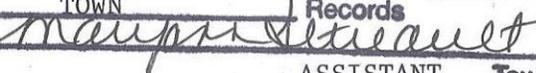
Adopted this 30th day of September, 2024.

SIGNATURES:



DERBY, VT

TOWN CLERK'S OFFICE
RECEIVED FOR RECORD

APRIL 29 A.D. 2025
at 11 o'clock 00 minutes A M
and recorded in Book TR16 Page 232-237
of TOWN Records
Attest: 
ASSISTANT Town Clerk