

TOWN OF SUTTON, VERMONT

ORDINANCE REGARDING DOGS AND WOLF-HYBRIDS

SECTION 1. AUTHORITY.

This Ordinance is adopted by the Selectboard of the Town of Sutton, under authority of 20 V.S.A. § 3549, 24 V.S.A. §§ 2291 (10), (14), and (15), and 24 V.S.A. Chapter 59.

SECTION 2. PURPOSE.

It is the purpose of this Ordinance to regulate the keeping of dogs and wolf-hybrids, and to provide for their lawful restraint, impoundment and destruction and their running at large, so as to protect the public health and safety of the Town and the quiet enjoyment of its residents' homes, properties, and public areas, as well as the health and safety of domestic pets, domestic animals and/or humans.

SECTION 3. DEFINITIONS.

“Animals” includes dogs and wolf-hybrids.

“Confinement” means being kept in a closed space from which the dog shall not be allowed to leave. The inside of a house or closed garage or kennel is such a place. Note that an outdoor wire pen is not sufficient to confine a female dog in heat (unless properly constructed so as to prevent the female from exiting or a male from entering by digging under or climbing over the wire fencing)..

“Domestic Animal” means those animals defined by 6 V.S.A. § 1151(2) which include cattle, sheep, goats, equines, deer, American bison, swine, poultry, pheasant, Chukar partridge, Coturnix quail, psittacine birds, ferrets, camelids, ratites (ostriches, rheas, and emus), and water buffalo.

“Domestic Pet” means any domestic dogs or wolf hybrids, domestic cats, and ferrets.

“Dog” means any member of the canine species. For purposes of this Ordinance, this term, wherever used, shall also include “wolf-hybrids,” “working dogs,” and “working farm dogs” except where specifically exempted.

“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.

“Health Officer” means the duly-appointed Health Officer of the Town of Sutton.

“Hearing” means a meeting before the Selectboard to determine facts regarding a complaint of a vicious or potentially vicious dog and to impose sanctions as appropriate.

“Hunting Dog”: Meaning as defined in Title 10, Chapter 115 of Vermont State Statutes.

“Impoundment” means the taking of a dog into physical custody by the Animal Control Officer and transport to the nearest available dog shelter. The owner/keeper will be required to pay all expenses

incurred during the period that a dog is impounded.

“Owner/Keeper” means any person who has actual or constructive possession of a dog. The term also includes those persons who provide food and shelter to a dog.

“Potentially Vicious Dog” means a dog running at large that inflicts ~~minor~~ injuries on a person even if not necessitating medical attention; chases, threatens to attack or attacks another domestic pet or domestic animal; causes damage to personal property; chases a person; or causes a person to reasonably fear attack or bodily injury from a dog. This definition shall not apply if the dog was protecting or defending itself, its offspring, another domestic pet or animal or a person from attack or assault or the person attacked or threatened by the dog was engaged in teasing, tormenting, battering, assaulting, injuring or otherwise provoking the dog.

“Premises” means the home and curtilage of a dog owner/keeper. Curtilage is defined as the area, usually enclosed, encompassing the grounds and buildings immediately surrounding a home that is used in the daily activities of domestic life.

“Repeatedly” means more than twice within a seven day period.

“Restraint” means physical restriction of the dog by chaining, leashing, use of electronic fencing and/or collar, placing in a fenced or enclosed area, or other similar action.

“Running At Large” means that a dog/dogs is/are not:

- a. in control of owner/keeper;
- b. in a vehicle;
- c. on the owner/keeper’s premises;
- d. on the premises of another person with that owner/keeper’s permission;
- e. clearly under the verbal or non-verbal control of the owner/keeper; or
- f. hunting or performing as a working dog, farm dog with the dog’s owner/keeper.

“Selectboard” means the Selectboard of the Town of Sutton.

“Sustained Period” means a period of 20 minutes or longer of continuous or frequent occurrence.

“Town” means the Town of Sutton, Vermont.

“Wolf-hybrid” means:

- a. An animal that is the progeny of a dog and a wolf (*Canis rufus* or *Canis lupus*);
- b. An animal that is advertised or otherwise described to be a wolf-hybrid; or
- c. An animal that exhibits primarily physical and/or behavioral wolf characteristics.

“Working Farm Dog” means a dog that is under control of the owner/keeper and is bred or trained to herd or protect livestock or poultry or to protect crops and that is used for those purposes and that is registered as a working dog pursuant to State law.

“Working Dog” means a dog that is under control of the owner/keeper and is serving as a law enforcement dog, a hunting dog, or in performance of other specified duties for the owner/keeper.

SECTION 4. COLLAR AND LICENSE.

A. Requirements.

1. **License.** Each dog that is kept within the Town of Sutton for more than 30 days must be annually licensed by the Town Clerk on or before April 1, in accordance with the provisions and fee schedule described in 20 V.S.A. §3581.

The basic license fee is increased by 50% after April 1. Such penalty will not be added if the dog fits into one of the following categories:

- a) A dog that is acquired after April 1 or moves into Sutton after April 1 and is licensed within 30 days of acquisition or arrival;
- b) A dog that is not yet six (6) months old on April 1 but is licensed within 30 days of reaching six (6) months of age. Newly acquired dogs older than six (6) months must be licensed within 30 days of acquisition.

A dog that is licensed for the current year (4/1 to 3/31) by another town in Vermont shall be valid in the Town of Sutton, provided that the license is recorded in the Town Clerk's office. No reciprocity is provided with any other State's license.

2. **Collar or Harness.** A person who owns, keeps, or harbors a dog within the Town of Sutton shall keep on such dog a collar or harness whenever such dog shall be off the premises of the licensed owner/keeper. A current license tag issued by the Town of Sutton shall be fastened securely to the collar or harness. It shall be unlawful for any person other than the owner/keeper or his/her agent, or the Town of Sutton Animal Control Officer or other designated Enforcement Officer to remove a license tag from a dog. A dog which is visiting from outside of Vermont must wear a collar and harness with a current license from its home state attached.

- B. **Unlicensed dogs.** Annually the Selectboard will have prepared a list of licenses issued during the current year and a list of those dogs licensed in the previous year that have not yet been licensed in the current year. Upon receipt of this list the Town Clerk will notify each owner/keeper of a dog thus identified that the dog is unlicensed and will explain the penalties involved. This notice may be in writing or by telephone.

When a designated Animal Control Officer or member of the Town of Sutton Selectboard find a dog is unlicensed for the current period, they will inform the owner/keeper of the need to license and the penalties that will be collected and they may impound the dog if necessary.

SECTION 5. NUISANCES.

A. Prohibitions. An owner/keeper of a dog shall not allow, permit, or suffer such dog to create a nuisance. The following activities shall be deemed nuisances:

Nuisance One - Lack of current license and/or rabies tag

A dog off the premises of the owner/keeper without a collar or harness with the current license and/or valid rabies tag securely attached.

Nuisance Two - Running at large

A dog running at large in the Town.

Nuisance Three – Failure to remove waste

A dog that defecates in any public area or on the private premises (home and curtilage) of another person and whose owner/keeper does not immediately remove the fecal material and dispose of it in a sanitary manner.

Nuisance Four – Unconfined Female Dog in Heat

A female dog in heat not confined to a building or other secured enclosure, except while under the direct control of the owner/keeper.

Nuisance Five – Disturbing the Peace

A dog that disturbs the quiet, comfort and repose of others by barking, whining, calling, or howling for a sustained period. This regulation shall not apply to dogs in a kennel/boarding facility which has received a zoning permit under the Town's Zoning Regulations. The zoning permit will govern the use of the kennel/boarding facility.

Nuisance Six – Dog that Chases

A dog that chases vehicles, game, domestic pets and domestic animals, or humans.

Nuisance Seven – Potentially Vicious Dog

A dog which has been determined by the Selectboard after a hearing held pursuant to Section 7 to be a "potentially vicious dog."

B. Exemptions for Working Farm Dogs and Other Working Dogs. The provisions of this section pertaining to running at large and disturbing the quiet, comfort and repose of others shall not apply to working farm dogs or other working dogs if:

1. The working farm dog is barking in order to herd or protect livestock or poultry or to protect crops; or
2. The working dog is barking or running at large in order to perform tasks for which they are trained.

C. Complaint and Investigation. Any person who considers a dog to be a nuisance may complain, in writing, to the Animal Control Officer or the Selectboard. The written complaint shall contain the time, date and place where the alleged behavior occurred, an identification of the domestic pet or animal threatened or attacked, the name and address of any victim or victims, and any other facts that may assist in an investigation of the complaint. The Selectboard may cause the complaint to be investigated, by established rules of civil and criminal procedure, to include case, constitutional, and civil law and rules of collection, and preservation of evidence, in accordance with State and Federal law.

SECTION 6. PENALTIES AND ENFORCEMENT.

The violation of this Ordinance shall be a civil matter which may be enforced in the Vermont Judicial Bureau or in the Caledonia County Superior Court, at the election of the Enforcement Officer.

A. Violations enforced in the Judicial Bureau shall be in accordance with the provisions of 24 V.S.A. §§ 1974a and 1977.

1. Any Town official designated as an Enforcement Officer by this Ordinance shall have the authority to issue tickets and represent the Town in hearings before the Judicial Bureau.
2. The Enforcement Officer is authorized to recover civil penalties for violations of this Ordinance in the following amounts for each violation:

Lack of current license and/or rabies tag

1st Offense: warning or \$50 fine	Waiver Fee: \$25
2nd Offense: impoundment and \$100 fine	Waiver Fee: \$50
3rd & Subsequent Offense: impoundment and \$200 fine.	Waiver Fee: \$100

Running at large or chasing vehicles, game, domestic pets and animals, or humans

1st Offense: warning or impoundment and \$200 fine.	Waiver Fee: \$100
2nd Offense: impoundment and \$400 fine	Waiver Fee: \$200
3rd & Subsequent Offense: impoundment and \$600 fine.	Waiver Fee: \$300

Failure to remove waste

1st Offense: warning or \$50 fine	Waiver Fee: \$25
2nd Offense: impoundment and \$100 fine	Waiver Fee: \$50
3rd & Subsequent Offense: impoundment and \$200 fine.	Waiver Fee: \$100

Unconfined Dog in Heat

1st Offense: warning or impoundment and \$200 fine	Waiver Fee: \$100
2nd Offense: impoundment and \$400 fine	Waiver Fee: \$200
3rd & Subsequent Offense: impoundment and \$600 fine.	Waiver Fee: \$300

Disturbing the peace

1st Offense: warning or	\$100 fine	Waiver Fee: \$50
2nd Offense:	\$200 fine	Waiver Fee: \$100
3rd & Subsequent Offense:	\$300 fine	Waiver Fee: \$150

Potentially vicious dog

1st Offense: warning or impoundment and	\$200 fine	Waiver Fee: \$100
2nd & Subsequent Offense: impoundment and	\$600 fine.	Waiver Fee: \$300

3. For purposes of determining the sequence of offenses, second and third offenses shall be those that occur within a 24-month period of the anniversary day of the first offense. Any offense occurring after this 24-month period shall be considered a new first offense.
4. The Enforcement Officer is authorized to recover a waiver fee, in lieu of a civil penalty, in the stated amount, for any person who declines to contest a municipal complaint and pays the waiver fee.

- B. Violations enforced in the Superior Court shall be in accordance with the Vermont Rules of Civil Procedure. The Town may pursue all appropriate injunctive relief. In addition, a civil penalty of not more than \$800 per violation may be imposed by the Superior Court for violations of this Ordinance.

SECTION 7. INVESTIGATION AND ACTIONS RELATED TO POTENTIALLY VICIOUS DOGS.

A person claiming a dog is a “potentially vicious dog” may file a written complaint with the Selectboard. The complaint shall contain the time, date and place where the alleged behavior occurred, an identification of the domestic pet or animal threatened or attacked, the name and address of any victim or victims, and any other facts that may assist the Selectboard in conducting its hearing. Upon receipt of a “potentially vicious dog” complaint the Selectboard shall proceed as in the case of a complaint related to a bite requiring medical attention (see Section 8, below), with the exception that if the Selectboard determines that the behavior classifies the dog as “potentially vicious” the Selectboard may order any protective measures be taken other than the dog being humanely destroyed.

SECTION 8. INVESTIGATION AND ACTIONS RELATED TO DOG BITES REQUIRING MEDICAL ATTENTION.

- A. When a dog has bitten a person while the dog is off or on the premises of its owner/keeper, and the person bitten requires medical attention for the attack, such person may file a written complaint with the Selectboard. The complaint shall contain the time,

- date and place where the attack occurred, the name and address of the victim or victims, and any other facts that may assist the Selectboard in conducting its investigation.
- B. The Health Officer will be informed of the bite incident and he/she may obtain a medical report of the bite if the victim is treated by a hospital or physician.
 - C. The Selectboard, within seven (7) days from receipt of the complaint, shall investigate the complaint and hold a hearing on the matter. If the owner/keeper of the dog which is the subject of the complaint can be ascertained with due diligence, said owner/keeper shall be provided with a written notice of the time, date and place of hearing and a copy of the complaint.
 - D. If the Selectboard finds the dog is found to have bitten the victim without provocation, the Selectboard shall make such order for the protection of persons as the facts and circumstances of the case may require, including, without limitation, that the dog is disposed of in a humane way, muzzled, chained, or confined. The order shall be sent by certified mail, return receipt requested, to the owner/keeper. A person who, after receiving notice, fails to comply with the terms of the order shall be subject to the penalties provided for herein and in 20 V.S.A. § 3550.
 - E. If a member of the Selectboard or an Enforcement Officer determines that the dog is a rabies suspect, the provisions of Vermont Statutes Title 20 Chapter 193, the rules of the Vermont Department of Health, and the provisions of Section 9, below, shall also apply.

SECTION 9. DOG BITES AND PROTECTION FROM RABIES.

- A. When a report is received that a dog has bitten a human, the procedures described in Vermont Statutes Title 20, Chapter 193, Section 3546, related to complaint, hearing, and actions to be taken by the Town, shall be followed. In addition, the Health Officer or the Enforcement Officer shall as soon as possible identify the dog, determine if it has a current license tag, confirm that the dog has a current rabies vaccination, and order the owner/keeper to confine the dog for 10 days. If no facilities exist for confining the dog at the owner/keeper's home, or if the Enforcement Officer determines that the owner/keeper will not be able to confine the dog properly, the dog may be confined in an alternate location for 10 days and all expenses thus incurred will be the responsibility of the owner/keeper.
- B. If the dog has a current tag, but the owner/keeper cannot be found, the dog will be impounded at the town impoundment kennel or delivered to a veterinarian for the 10 day observation period.
- C. In the event the dog does not have a current tag and is not registered or has no identification and the owner/keeper cannot be found, the dog will be impounded or delivered to a veterinarian for observation for at least 10 days.
- D. If any dog appears ill during the 10 day confinement this dog must be evaluated by a veterinarian. No dog may be destroyed during the 10 day observation period, except on the order of a veterinarian and after an attempt has been made to contact the owner/keeper.
- E. The Health Officer or Enforcement Officer will determine that the period of confinement is carried out. At the end of 10 days the Health Officer or Enforcement Officer will contact the dog owner/keeper and determine if the dog is healthy. The Health Officer or Enforcement Officer may decide that a veterinarian should examine the dog and issue a certificate of freedom from rabies; the cost of such an examination will be paid by the dog's owner/keeper.
- F. If there is any doubt about the dog's health at the end of the confinement the dog will remain confined and advice will be obtained from the Vermont Department of Health.

- G. The Health Officer will file a dog or wolf-hybrid Bite Report Form with the Vermont Department of Health.
- H. Should rabies be confirmed in the confined dog the matter shall be handled as directed by the Board of Health with the advice of the Department of Health and after an attempt has been made to contact the owner/keeper.
- I. Whenever it becomes necessary in the judgment of the Town of Sutton Health Officer to safeguard the public from an outbreak of rabies, the Health Officer shall first take all necessary measures to ensure that the rabies outbreak is contained within the area where first detected and closely monitor the area thereafter. If the outbreak cannot be so contained, the Health Officer may issue a proclamation ordering and requiring every owner/keeper of a dog to confine it securely at all times upon the premises of the owner/keeper unless such dog is wearing a muzzle of sufficient strength to prevent its biting any person or other dog. Any unmuzzled dog running at large during the period of such proclamation shall be seized and impounded unless noticeably infected with rabies. All dogs so seized and noticeably infected with rabies shall be humanely disposed of forthwith by the Health Officer. Prior notice to the owner/keeper shall **NOT** be required.

SECTION 10. IMPOUNDMENT.

A. Grounds for Impoundment. An Enforcement Officer may impound a dog that is found running at large; or that lacks a collar or license, as required by Section 4. In addition, an Enforcement Officer may impound any dog that he or she determines is a “potentially vicious dog” which presents an imminent danger to people or other animals; or has reportedly bitten a person off or on the premises of its owner.

B. Notice of Impoundment. When the owner/keeper of a dog that has been impounded can be readily ascertained, the Enforcement Officer who impounds such a dog shall, within twenty-four (24) hours, give notice to the owner/keeper thereof, either personally, by telephone call, or by written notice at the owner/keeper’s dwelling. Such notice shall inform the owner/keeper of the nature of the violations, the location of the dog, and the steps that are necessary to have it returned to the owner/keeper. If the owner/keeper of the dog is unknown, the officer who impounds a dog shall, within twenty-four (24) hours of impoundment post a public notice of the impoundment in the Town Clerk’s office and at least two other prominent places in Town for a ten (10) day period. A notice shall also be placed in the Caledonian-Record newspaper two times within the 10-day period. The public notice shall include a description of the dog, including any significant marks of identification, and when and where it was impounded or found by the person placing the dog in the Town’s custody. The notice shall also declare that, unless the owner/keeper claims the dog and pays all expenses incurred by the Town for treatment, boarding, and care of the dog, that the dog may be placed in an adoptive home, or transfer it to a humane society or rescue organization. If the dog cannot be placed in an adoptive home or transferred to a humane society or rescue organization, it may be destroyed in a humane way.

C. Release from Impoundment. A dog that has been impounded shall be released to the owner/keeper only after payment of all applicable penalties and impoundment fees (including but not limited to boarding, food, and veterinary expenses); the final disposition of a potentially vicious dog or vicious dog

hearing, if applicable; and all necessary remedial action is taken by the owner/keeper. Remedial action shall include, but is not limited to, providing a collar and current license, and verification of certification of current vaccination against rabies.

If the owner/keeper of a dog impounded under the provisions of this Ordinance refuses to take the remedial actions necessary to secure the dog's release within ten (10) days following notice of impoundment or gives notice either personally, by telephone call, or in writing to the Town of forfeiture of ownership before that time, the dog may be placed in an adoptive home; transferred to a humane society or rescue organization; or, if the Town is unable to transfer the dog, humanely destroyed. The owner/keeper of a dog transferred or humanely destroyed shall remain liable for all expenses incurred by the Town for treatment, boarding and care of the dog for the duration of its impoundment and any expenses associated with its transfer or humane disposal.

The procedures provided in this section shall only apply if the dog is not a rabies suspect. If an Enforcement Officer determines that the dog is a rabies suspect, the Selectboard shall immediately notify the Health Officer who shall proceed in accordance with the rules of the Vermont Department of Health and the provisions of Section 9, above.

SECTION 11. APPEALS

- A. Except in the event of a confirmed case of rabies, any person receiving a citation (and/or fine), an order to restrain, or an order to confine a dog may appeal that action in writing to the Town of Sutton Selectboard, within twenty-one days of receipt of the notice of violation. Upon receiving such an appeal, the Selectboard will schedule a hearing for the appeal within fourteen days. The owner/keeper of the dog, the Animal Control Officer, and the person making the complaint about the dog will be notified to attend the hearing. The Selectboard will hear the merits of the case and shall affirm, reduce or eliminate the penalty as justice may require. The decision may be delivered to the respondent immediately following the hearing or shall be delivered no later than five days following the hearing.
- B. If the person making the original complaint about a dog declines to attend the hearing and the Animal Control Officer or Town of Sutton Selectboard affirms the action taken was solely upon the information of the complainant and not corroborated by his personal observation, the fine or order shall be dismissed by the Town of Sutton Selectboard.

SECTION 12. RECORDS.

The following records shall be maintained, as public records, by the Town, for the requisite period required by State law:

- A. License applications and copies of licenses for dogs.
- B. Current rabies certificates for all dogs.
- C. Copies of all written warnings, citations, and orders relating to violations of this Ordinance.

- D. Copies of all reports and complaints received by Town officials related to bites or attacks by dogs or other incidents of a dog causing a nuisance or threat in the Town. In addition all records related to public hearings and disposition of complaints shall be maintained.
- E. Copies of all reports for all investigations and actions taken involving dogs shall be filed by the Animal Control Officer or Enforcement Officer.

SECTION 13. OTHER LAWS AND RELIEF.

This Ordinance is in addition to all other ordinances of the Town of Sutton and all applicable laws of the State of Vermont. All ordinances or parts of ordinances inconsistent with the provisions of this ordinance are hereby repealed to the extent that such inconsistency.

In addition to the enforcement procedures detailed herein, the Town of Sutton is authorized to commence civil action to obtain injunctive and other appropriate relief or to pursue any other remedy authorized by law

SECTION 14. SEPARABILITY OF PROVISIONS. Each separate provision of this Ordinance shall be deemed independent of all other provisions, and if any provision of the Ordinance shall be declared invalid by a Court of Law all other provisions of this Ordinance shall remain valid and enforceable.

SECTION 15. EFFECTIVE DATE.

This Ordinance will become effective 60 days after adoption by the Town of Sutton Selectboard [or at such time following *the expiration of 60 days from the date of its adoption as is determined by the Selectboard per 24 V.S.A. §1973.*] If a petition is filed under 24 V.S.A. § 1973, that statute shall govern the taking effect of this Ordinance.

Parker J. King

1-26-17

Date

Scott F. Spence

Tom Simpson

Adoption History

1. Agenda item at regular Selectboard meeting held on _____.
2. Read and approved at regular Selectboard meeting on _____, and entered in the minutes of that meeting which were approved on _____.
3. Posted in public places on _____.
4. Notice of adoption published in the _____ newspaper on _____ with a notice of the right to petition.
5. Other actions [petitions, etc.] _____.