



## **FIREARMS DISCHARGE ORDINANCE**

The Selectboard of the Town of Killington hereby adopts the following ordinance:

### **Section 1.0 AUTHORITY**

This ordinance is enacted pursuant to Title 24 Vermont Statutes Annotated ("V.S.A") §2291(8).

### **Section 2.0 PURPOSE**

It is the purpose of this ordinance to regulate the discharge of firearms within the areas of the Town specified below in order to promote the public health, safety, and welfare.

### **Section 3.0 DEFINITIONS**

Unless the context indicates, as used in the ordinance:

3.1 "Discharge" shall mean to Shoot or fire a Firearm.

3.2 "Firearm" shall mean any device which will expel a projectile by the action of an explosive, and includes, but is not limited to, any device commonly referred to as a Pistol, Revolver, Rifle, Muzzle Loader, Shotgun, or other gun.

3.3 "Loose Shot" shall mean multiple spherical type projectiles to be discharged from a Shotgun, such as buck shot and bird shot.

3.4 "Muzzle Loader" shall mean a Firearm designed to be loaded from the muzzle with powder and projectile and primed at the breech with either powder or a cap and can only shoot a single round without reloading.

3.5 "Pistol" shall mean a small Firearm having a stock to fit the hand, and a short barrel, and fired from one hand.

3.6 "Projectile" shall mean a bullet, slug, round ball, or pellets projected or thrown by force from a Firearm.

3.7 "Restricted Firearms Discharge Area, or "RFDA," means (i) the traveled portions of each of the following highways, plus (ii) all lands within two hundred (200) yards on each side of the traveled portions each of such highways (meaning areas with a width of four hundred (400) yards plus the width of each highway's traveled portion):

3.7.1: River Road, from its intersection with US Route 4 to its intersection with Vermont Route 100 North.

3.7.2: Schoolhouse Road, from its intersection with Killington Road to its terminus.

3.7.3: Roaring Brook Road, from its intersection with Dean Hill Road to its intersection with High Ridge Extension Road.

3.7.4: Barrows Towne Road, from its intersection with Vermont Route 100 North to its terminus.

3.7.5: West Park Road, from its intersection with Killington Road to its terminus.

The RFDA is described on a plan attached as Schedule A to this Ordinance and incorporated herein by reference.

3.8 "Revolver" shall mean a type of pistol having a revolving cylinder in the breech chambered to hold several cartridges that may be fired in succession without reloading.

3.9 "Rifle" shall mean a Firearm having a rifled or grooved bore, usually fired from the shoulder and loaded from the breach.

3.10 "Shoot" shall mean to discharge a projectile from a Firearm.

3.11 "Shotgun" shall mean a smooth or rifled bore gun, designed to shoot a shell containing either single or multiple projectiles such as pellets, slugs, or other Loose Shot.

3.12 "Sunset" and "Sunrise" shall be the times set forth in the Sunset/Sunrise Tables (Montpelier Station) of the Vermont Fish and Wildlife Department, adding one hour for Daylight Savings Time, when in use (found at <http://www.eregulations.com/vermont/sunsetsunrise-tables/>). If such Sunset/Sunrise Tables shall cease to be maintained or are otherwise not available, the tables for the Rise and Set for the Sun for the Town of Killington, maintained by the United States Naval Observatory, again adding one hour for Daylight Savings Time, when in use, shall be used (found at [http://aa.usno.navy.mil/data/docs/RS\\_OneYear.php#notes](http://aa.usno.navy.mil/data/docs/RS_OneYear.php#notes)).

#### **Section 4.0 DISCHARGE PROHIBITIONS**

4.1

No person shall Discharge or cause to be Discharged any Firearm within the RFDA, except as expressly allowed in this Ordinance.

4, 2

Notwithstanding the provisions of Section 4.1, no person shall Discharge or cause to be Discharged any Firearm within the Town of Killington between one-half hour after Sunset and one-half hour before Sunrise, except as expressly allowed in this Ordinance.

## **Section 5.0 EXEMPTIONS**

### **5.1 DESTRUCTION OF ANIMALS**

This Ordinance shall not apply to the Discharge of a Firearm for purposes of (i) destroying livestock, or (ii) destroying an animal, when such animal can be shown by the person discharging the Firearm to have constituted an immediate danger to any person or the property of any person, or when the animal is so seriously injured or diseased that its destruction is necessary, provided that no Firearm shall be so Discharged unless all reasonable precaution has been taken for protection of the public safety.

### **5.2 POLICE AND ENFORCEMENT OFFICERS**

This ordinance shall not apply to the Discharge of Firearms by police officers, sheriffs, constables, game wardens and other statutorily designated law enforcement officers in the performance of their legal duties.

### **5.3 HUNTING**

Except as limited by Section 4.2, this ordinance shall not apply to the use of a shotgun, air rifle, or BB gun, by a hunter in the active pursuit of game, except that such shotgun shall not be used with ammunition containing a single slug, pellet or missile in any one cartridge or shell, provided that, a shotgun, air rifle or BB gun shall not be Discharged within a distance of 200 yards from any building wholly or partly in the RFDA (notwithstanding that such 200 yard area extends outside the RFDA), or within 100 yards from the traveled portion of any highway described in Section 3.7.

### **5.4 ACTS AUTHORIZED BY STATUTE OR SELF-DEFENSE**

Nothing contained herein shall be construed to limit the rights or immunities given under 13 V.S.A., § 2305, or to limit the Discharge of a Firearm in circumstances otherwise constituting self-defense under Vermont law. Any person found blameless by competent proper legal authority under the provisions of such statute or otherwise under the doctrine of self-defense shall be equally immune from the penalty provisions of Section 9.0 of this Ordinance.

### **5.5 SPORT SHOOTING RANGE**

This ordinance shall not apply to the Discharge of Firearms on any existing sport shooting range, as defined in 10 V.S.A. §5227.

## **Section 6.0 POSSESSION OF FIREARMS**

Nothing contained herein shall be construed to limit the mere possession of Firearms.

## **Section 7.0 NON-APPLICABILITY OUTSIDE RFDA, POSTING**

This Ordinance does not apply to the Discharge of Firearms outside the RFDA. The Selectboard reserves the right to post any municipal land against hunting, shooting, and trapping in accordance with 10 V.S.A. §5201. The provisions of this Ordinance are enforceable, notwithstanding that the RFDA may not be posted. Notwithstanding any other provision of this ordinance, no Firearm shall be Discharged in violation of the laws of the State of Vermont and/or the United States of America.

**Section 8.0 CIVIL ORDINANCE**

This Ordinance is designated as a civil ordinance pursuant to 24 V.S.A. § 1971(b).

**Section 9.0 PENALTIES**

The following civil penalties and waiver penalties are hereby imposed for violations of this Ordinance. Civil penalty amounts will be imposed except that in cases where violations are brought in the Vermont Judicial Bureau, and where the violation is admitted or not contested, the waiver penalty amounts will be imposed in lieu of the civil penalty amounts.

	<u>Civil Penalty</u>	<u>Waiver Penalty</u>
First Violation	\$150	\$100
Second Violation	\$200	\$150
Third Violation	\$400	\$200
Fourth and subsequent Violations	\$800	\$400

Violations shall be counted on a 12-month revolving basis, beginning with the date of the first violation in any twelve (12) month period.

**Section 10.0 INJUNCTIVE RELIEF**

In addition to any other remedy provided in this Ordinance or available at law or in equity, the Town Selectboard may cause the Town to institute a suit in equity for an injunction to prevent, restrain or abate any violation of this Ordinance.

**Section 11.0 ATTORNEYS' FEES**

In any action brought by the Town to enforce the provisions of this Ordinance, to enjoin violation of this Ordinance, or to collect any civil penalty or other amount due the Town, the person in violation or liable for amounts due the Town shall pay the Town its reasonable attorneys' fees and other costs and expenses of such action.

**Section 12.0 SEVERABILITY**

If any portion of this Ordinance and any amendments made hereto are held unconstitutional or invalid by a court of competent jurisdiction, the remainder of this Ordinance and amendments made hereto shall not be affected and shall remain in full force and effect. If any statute referred to

in this Ordinance shall be amended, this ordinance shall be deemed to refer to such amended statute.

**Section 13.0 EFFECTIVE DATE**

This ordinance shall become effective 60 days after its adoption by the Killington Selectboard. If a petition is filed under 24 V.S.A. §1973, that statute shall govern the taking effect of this ordinance.

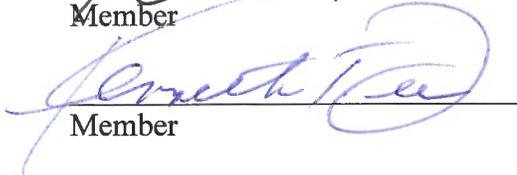
KILLINGTON SELECTBOARD:



Member



Member



Member

ADOPTION HISTORY:

1. Adopted at regular Selectboard meeting on November 25, 2015, and entered in the minutes of that meeting.
2. Posted in five (5) public places in Town on November 25, 2015.
3. Notice of Adoption of Ordinance published in the Mountain Times newspaper on December 2, 2015, with a summary of the Ordinance and a statement of citizens' rights to petition for a vote on the Ordinance.