

**TOWN OF SHERBURNE
ORDINANCE FOR THE CARE AND CONTROL OF DOGS**

Section 1. Authority and Adoption

Pursuant to 20 V.S.A. Section 3549, 24 V.S.A. Section 2291(10) and 24 V.S.A. Section 1971 the following ordinance is promulgated in order to regulate the keeping of dogs in the Town of Sherburne. This Ordinance is designated as a civil ordinance pursuant to 24 V.S.A. Section 1971(b).

Section 2. Definitions

As used in this Ordinance, unless the context otherwise indicates:

(A) "Dog": Includes both male and female domestic dogs (Canis Familiaris) and wolf-hybrids as defined in 20 V.S.A. Section 3541(8).

(B) "Dog Running at Large": A dog which is not on the property of its owner or keeper and is not (1) on a leash, or (2) on or within a vehicle, or (3) clearly under the verbal command of its owner or keeper or the owner or keeper's agent, or (4) engaged in hunting with its owner or keeper.

(C) "Domestic Animal": An animal identified in 6 V.S.A. Section 1151(2). Where applicable, the definitions of particular animals provided by 6 V.S.A. Section 1151 shall control. The term "domestic animal" shall also include an animal defined as a "domestic pet" or "pet" by 20 V.S.A. Section 3541(3).

(D) "Issuing Municipal Official" or "Enforcement Official": A constable of the Town of Sherburne and any other person designated by the Board of Selectmen to issue and pursue before the Traffic and Municipal Ordinance Bureau a municipal complaint to enforce this ordinance.

(E) "Owner" or "Keeper": Any person(s) or entity who owns, harbors, keeps, or permits any dog to be kept in or about their buildings or premises; or who is in actual or constructive possession of a dog in the Town of Sherburne.

(F) "Person": A natural person, corporation, partnership, unincorporated association, or other legal entity; or an agent thereof.

(G) "Pound" and "Poundkeeper": The pound and poundkeeper shall be that place and that person, respectively, designated from time to time by the Selectmen of the Town of Sherburne to detain dogs seized by an Issuing Municipal Official in the enforcement of this Ordinance.

(H) "Vicious Dog": A dog which causes reasonable fear of bodily injury by attacking or threatening to attack any domestic animal or any person, except a person who is in the act of committing unlawful (criminal) trespass or other criminal act upon the private property or person of the owner or keeper of the dog.

Section 3. Licensing

A person who is the owner of a dog more than six months old shall annually on or before April 1 cause the dog to be registered, numbered, described and licensed as required by 20 V.S.A., Chapter 193, Subchapter 2. The failure of a dog owner to comply with 20 V.S.A., Chapter 193, Subchapter 2 shall constitute a violation of this Ordinance.

Section 4. Disturbances and Nuisances

An owner, keeper, or other person shall not permit a dog to create a disturbance or nuisance as hereinafter defined:

- a. make excessive noise so as to disturb adjoining landowners or pedestrians,
- b. cause damage to personal property,
- c. repeatedly scatter refuse,
- d. harass pedestrians, bicyclists or other passersby,
- e. attack persons or other animals,
- f. obstruct traffic,
- g. cause any person to reasonably fear a bodily injury or sustain a bodily injury by attacking or threatening to attack any person other than persons who are in the act of trespassing upon or committing any other criminal act upon the private property or person of the owner or keeper of the dog, or
- h. otherwise be a nuisance or create a disturbance.

Owners, keepers or other persons who permit a dog to create a disturbance or nuisance as defined herein shall be subject to civil penalties and such other enforcement remedies as are hereinafter provided and as are otherwise provided by law.

Section 5. Running at Large

An owner, keeper or other person shall not permit a dog to run at large within the limits of the Town of Sherburne. An owner, keeper or other person who permits a dog to run at large as defined

herein shall be subject to such civil penalties or other enforcement remedies as are hereinafter provided and as are otherwise provided by law.

Section 6. Vicious Dog

A person shall not own or keep a vicious dog except upon such terms and conditions as ordered by the Board of Selectmen.

Section 7. Dog in Heat

An owner, keeper or other person shall not permit a female dog in heat to be outside of a building or a secured enclosure. A violation of this provision shall be considered a nuisance.

Section 8. Impoundment and Enforcement

- a. Any Issuing Municipal Official, in addition to any other remedies available by statute or as are hereinafter set forth, may apprehend any dog found running at large or creating a disturbance or nuisance contrary to the provisions of this Ordinance, and may impound such dog with the Poundkeeper.
- b. An Issuing Municipal Official shall make a reasonable investigation to determine whether a violation of this Ordinance has occurred when an appropriate complaint is lodged with the Board of Selectmen or any Issuing Municipal Official. If the Issuing Municipal Official reasonably concludes pursuant to his or her investigation that a dog is running at large, or is creating a disturbance or nuisance, he or she may impound said dog with the Poundkeeper.
- c. An appropriate complaint shall be deemed to have been made when a person gives the Board of Selectmen or any Issuing Municipal Official a full description of the dog, including, if known, breed, size, color and other distinguishing features, which description must be sufficient for an Issuing Municipal Official to make a proper identification. If such description is insufficient for a proper identification, no dog shall be impounded. The person who made such complaint shall file in writing with the Board of Selectmen or any Issuing Municipal Official a written complaint setting forth his or her name, address, phone number, description of the dog and circumstances under which the dog was believed to be in violation of this Ordinance. If no written complaint is filed, the Issuing Municipal Official, at his or her option, may release the

dog and charge the complainant with any impoundment, boarding, and administrative fees and any other costs which may be due.

- d. The Issuing Municipal Official, upon apprehending and impounding any dog shall make a complete registry, entering the breed, color and sex to such dog, and whether the dog is licensed and shall, if possible after reasonable inquiry, notify the owner or keeper. If a dog is licensed, the Issuing Municipal Official shall enter the name and address of the owner or keeper and the number of the license tag. He or she shall immediately forward a duplicate registry to the Town Clerk to be filed with the dog licenses.
- e. Issuing Municipal Officials may use all reasonable and lawful methods for catching and impounding dogs found to be in violation of this Ordinance, including the use of tranquilizing and marking apparatus.

Section 9. Release from Impoundment

The procedure for securing the release of a dog from the pound shall be as follows:

- a. Upon delivery to the pound the impounding Issuing Municipal Official shall notify the owner or keeper, if the dog is licensed or has identifying tags. Notice shall be sufficient if given to its owner or keeper by certified mail. The dog shall be held for seven (7) working days from mailing of notice unless claimed earlier.
- b. If the dog is unlicensed, the Issuing Municipal Official shall notify the owner or keeper by certified mail, if known, and post a notice containing a description of the dog in the Town Clerk's Office for seven (7) working days.
- c. If the owner or keeper does not claim the dog within seven (7) working days from mailing or posting of the notice, the dog may be given to any person who pays the Pound-keeper's fees and the cost of any necessary shots and license fees.
- d. No dog shall be released unless the owner or keeper shall first have applied for and received a valid current license and all impoundment, boarding and other fees, and the cost of any necessary shots, as required herein, have been paid.
- e. If no person claims an impounded dog on or within 10 days of the mailing or posting of notice, the dog may be humanely destroyed, and the Town of Sherburne shall pay

all necessary costs incident thereto.

- f. When a dog has been impounded pursuant to Section 11, the owner or keeper shall not remove the dog from the pound except on such terms and conditions as ordered by the Board of Selectmen.

Section 10. Administrative Fees

- a. Any dog impounded under the provisions of this Ordinance shall be released only on payment to the Town of a \$30.00 administrative fee; provided, however, that any dog impounded for the third time in any calendar year shall be released only on payment to the Town of a \$40.00 administrative fee, and if so captured four (4) or more times in any calendar year, it shall be released only upon payment to the Town of a \$60.00 administrative fee.
- b. The Selectmen are hereby empowered to increase the administrative fees to the Town to cover the costs of enforcing this Ordinance by appropriate resolution.
- c. The Administrative Fees imposed under this section are in addition to any impoundment, boarding, shots, and other costs contained in Section 9 above assessed by any pound designated by the Selectmen.

Section 11. Investigation of Vicious Dogs

- a. When a domestic dog has bitten a person while the dog is off the premises of the owner or keeper, and the person bitten requires medical attention for the attack, such person may file a written complaint with the Selectmen. 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 Selectmen in conducting its investigation required by subsection b of this section.
- b. The Selectmen, within seven days from receipt of the complaint, shall investigate the charges and 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 a written notice of the time, date and place of hearing and the facts of the complaint.
- c. If the dog is found to have bitten the victim without provocation, the Selectmen 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. A person who, after receiving notice, fails to comply with the terms of the order shall be subject to the penalties provided in 20 V.S.A. Section 3551 as amended.

- d. The procedures provided in this section shall only apply if the dog is not a rabies suspect. If a member of the Board of Selectmen or any Issuing Municipal Official determines that the dog is a rabies suspect, the provisions of subchapter 5, Chapter 193 of Title 20 and such rules as are adopted by the Department of Health shall apply.

Section 12. Civil Penalties

Any owner, keeper or other person who violates any section of this Ordinance shall, in addition to any other fines, penalties and remedies as provided by law, be subject to the following progressive civil penalties:

- a. At the option of the Issuing Municipal Official, the issuance of a warning letter notifying the owner or keeper to license the dog immediately, if applicable, or take other action to prevent the dog from causing a disturbance or nuisance or running at large.
- b. A fine of \$50.00 for the first, \$75.00 for the second, and \$100.00 for the third violation, and \$200.00 for each violation thereafter.
- c. Each day that the violation continues shall constitute a separate violation.
- d. A waiver fee of one-half the civil penalty to which an owner or keeper is subject shall be assessed for those owners or keepers who admit or do not contest the ordinance violation, which amount and the date for acceptance of the waiver fee shall be affixed to the complaint or notice.

In addition to the remedies provided herein or otherwise available at law, this Ordinance may be enforced pursuant to 20 V.S.A. Section 3550, as amended, or 24 V.S.A. Section 1974a, as amended, at the election of any Issuing Municipal Official for the purpose of pursuing civil remedies under 24 V.S.A. Section 1977 et seq., as amended. If the Issuing Municipal Official seeks to enforce this Ordinance pursuant to 20 V.S.A. Section 3550, as amended, said official shall notify the Selectmen of this election, who shall forthwith issue the notice as required by 24 V.S.A. Section 3550 (e), as amended.

Section 13. Severability

The provisions of this Ordinance are severable. If any provision of this Ordinance, or its application to any person or circumstances or within any part of the Town is held invalid, illegal, or unenforceable by a court of competent jurisdiction, the invalidity shall not apply to any other portion of this Ordinance which can be given effect without the invalid provision or application thereof.

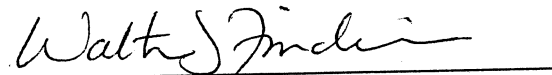
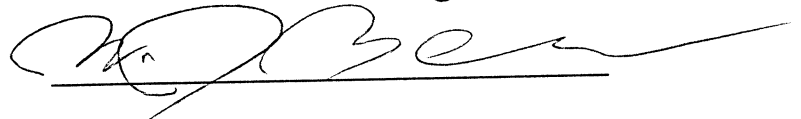
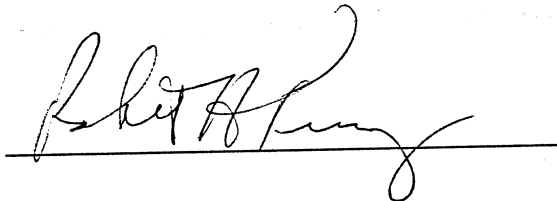
Section 14. Repeal

The Town's previous Ordinance for the Care and Control of Dogs, dated April 26, 1976, as amended, and designated as Ordinance #5, is hereby repealed in its entirety upon the effective date of this Ordinance.

Section 15. Effective Date

This Ordinance shall become effective sixty days after adoption as provided in 24 V.S.A. Section 1972.

This Ordinance is hereby adopted this 30TH day of MARCH, 1998.



TOWN OF SHERBURNE
BOARD OF SELECTMEN

Citizens have the right to petition for a vote on the question of disapproving this Ordinance for the Care and Control of Dogs at an annual or special meeting as provided in Title 24, Section 1973. Citizens may contact David W. Lewis, Town Manager, who is knowledgeable of the Ordinance and is available to answer questions at the Sherburne Town Office, P.O. Box 429, River Road, Killington, VT 05751, or call 422-3241.

The full text of the Ordinance is described above and may be examined at the Town Office from 9 a.m. to 3 p.m. Monday through Friday.