

# TOWN OF ROCKINGHAM, VERMONT

## ROCKINGHAM ANIMAL CONTROL ORDINANCE

### ARTICLE I GENERAL PROVISIONS

#### 1.1 Title

All rules and regulations contained herein, together with such additions and amendments as may be hereafter adopted, are hereby designated as the "Rockingham Animal Control Ordinance" or "Ordinance."

#### 1.2 Authority

This Ordinance is adopted pursuant to authority granted under 24 VSA Section 1971, 24 VSA Section 2291, subsections (10) and (14), 20 VSA Chapters 191 and 193.

#### 1.3 Purpose

The purpose of this Ordinance is to protect the health, safety and welfare of the public, dogs and wolf-hybrids of the Town of Rockingham by regulating the keeping of dogs and wolf-hybrids and their running at large and by defining what constitutes a public nuisance. In order to accomplish the foregoing purpose, it is deemed necessary to establish procedures for enforcement and establish penalties for violations of this ordinance.

#### 1.4 Filing of Ordinance

The Town Clerk of the Town of Rockingham shall file a certified copy of this Ordinance, as well as certified copies of any additions or amendments to this Ordinance as may be hereafter adopted, in the municipal records.

#### 1.5 Inconsistent Provisions

In the case of any other applicable regulation, by-law, ordinance or statute which differs from the rules and regulations of this Ordinance, the more strict shall apply.

#### 1.6 Civil Ordinance

This Ordinance is designated as a civil ordinance in conformance with 24 VSA Section 1971(b).

## ARTICLE II DEFINITIONS

Unless the context specifically indicates otherwise, the meaning of terms used in this Ordinance shall be as follows:

“Animal Control Officer” shall mean the persons (s) or agency or agencies appointed by the Town Manager to police and enforce this Ordinance in cooperation with appropriate law enforcement agencies.

“Dangerous animal” shall mean: (1) an animal, while running at large, which causes reasonable fear of bodily injury by attacking or threatening to attack a person, domestic pet, domestic animal, or wolf-hybrid; (2) an animal that is diseased and dangerous to the public health; or (3) a wolf-hybrid which is not being confined within a proper enclosure as required by Article IV, or which, when outside of its enclosure, is not either in a cage or on a leash.

Dog: A domestic dog or wolf-hybrid as defined in 20 V.S.A., Chapter 193, Section 3541.

“Dog Control Area” shall mean the following areas and locations wherein dogs being walked must be restrained on a leash:

Within the limits of the Village of Bellows Falls

Within the limits of the Village of Saxtons River

“Domestic animal” shall mean those animals defined by 6 V.S.A. 1151(2) as follows: rabbits, cattle, sheep, goats, equines, fallow deer, red deer, reindeer, American bison, swine, poultry, pheasant, Chukar partridge, Coturnix quail, psittacine birds, ferrets, camelids, ratites (ostriches, rheas, and emus), reptiles and amphibians. The term does not include those species of amphibians native to Vermont. The term shall include cultured trout propagated by commercial trout farms.

“Domestic Pet”: shall mean any dog, cat, ferret, or wolf-hybrid as defined in 20 V.S.A., Chapter 193, Section 3541.

“Humane disposal” shall mean (a) Humane euthanasia by a licensed veterinarian, or (b) sold or given away to a responsible person.

“Owner” shall mean any person who owns a domestic pet or wolf-hybrid and includes any person who has actual or constructive possession of the pet or wolf-hybrid. The term also includes those persons who provide feed or shelter to a domestic pet or wolf-hybrid. However, it is not the intent of the Town to require a person to be responsible under this ordinance for feral animals that take up residence in a building other than the person’s home, even if the person occasionally provides feed to the animal.

"Person" shall mean any individual, institution, public or private corporations, partnership or other legal entity.

“Public Road” shall mean the area within 25' of the center line of the traveled way on any state- or town-owned highway.

“Run at large” shall mean to move about without restraint, control or limitation as to property lines or areas.

- A. A dog within the Dog Control Area is considered restrained if it is on a leash in the presence of a person and obedient to that person's commands and is not causing a danger or nuisance. **(amended 4/6/2010)**
- B. A dog outside the Dog Control Area is considered restrained if it is either (1) on a leash or (2) in the presence of a person and obedient to that person's commands and is not causing a danger or nuisance.
- C. A wolf-hybrid, within or outside the Dog Control Area, is considered restrained if, while outside of the enclosure required in Article IV, is:
  - 1. in a cage; or
  - 2. on a leash.

(Exception: Nothing in this Ordinance shall be construed to require: (1) the restraint of cats, (2) the restraint of any domestic pet or domestic animal while on private property by permission of the property owner or while in a vehicle, or (3) to restrict the use of dogs for lawful hunting.)

"Selectboard" shall mean the duly elected legislative body of the Town of Rockingham, Vermont.

"Town" shall mean the Town of Rockingham, Vermont.

"Town Clerk" shall mean the Town Clerk of Rockingham, Vermont.

"Wolf-hybrid" shall mean those animals defined by 20 V.S.A., Chapter 193, Section 3541, as follows: an animal which is the progeny or descendant of a domestic dog (*Canis familiaris*) and a wolf (*Canis lupus* or *Canis rufus*). "Wolf-hybrid" also means an animal which is advertised, registered, licensed or otherwise described or represented as a wolf-hybrid by its owner, or an animal which exhibits primary physical and behavioral wolf characteristics, or one which has the primary physical and behavioral wolf characteristics as described by the Commissioner of the Department of Fish and Wildlife (in Title 10, Appendix, Chapter 1, Subchapter 3, #34) as follows:

"The following are some general characteristics common to wolves:

Wolves have large heads, long muzzles (distance from the eyes to the top of the nose), and proportionately larger canines than domestic dogs. Wolf eyes appear slanted when viewed head on and are most often yellow in color. Built for speed and agility, wolves are lanky with narrow chests, long legs, and large feet. They often appear "bonier" than domestic dogs. Their front legs are quite close together and front feet toe out. The rear legs of a wolf tend to be cow-hocked or turned in. While a domestic dog will often carry its tail curved up over its back, a wolf carries its tail straight out or down (a dominant wolf will sometimes hold it straight up). Wolves and occasionally some northern breeds of dog, have an obvious gland located halfway down the top of the tail. The gland called the supra caudal functions as a scent carrier. The size of the supra caudal gland varies from that of a dime to 1 ½ inches in diameter. The hair covering the gland will usually contrast with the hair color of the tail and is often quite coarse. Wide tufts of hair often project outward and downward from a wolf's ears, framing the face.

In the wild the wolf is a social animal, living in family groups or packs. There are social hierarchies with the pack and being a dominant member is an important survival tool. Dominant animals rule with aggressive behavior, and wolves within packs will constantly test one another. Wolves will watch for signs of weakness in pack members or prey and take advantage of the weakness through aggressive behavior.

Wolves, because of the hunting instinct, are genetically programmed to track and pounce (seemingly without provocation) upon small, erratically behaving, vocalizing individuals who may, to the wolf, seem to be distressed. Small children often appear to a wolf to be distressed prey. Running or yelling on the part of a child can trigger a predatory response in a wolf. This instinctive response is almost impossible to alter through socialization or training.

Wolves are hyperactive compared to dogs and extremely curious or inquisitive. They may be shy around people and are extremely difficult to restrain. In the wild, wolves may range up to 30 to 125 miles per day and from a standing position can jump vertically 6 to 8 feet.”

### **ARTICLE III** **APPLICABILITY OF ORDINANCE**

- 3.1 No person owning, leasing, occupying, or camping upon, or having control of, any premises in the Town, and no person owning, keeping, harboring, or maintaining a dog or wolf-hybrid shall allow such animal to become or remain a public nuisance as herein defined, or to be kept in violation of this Ordinance.
- 3.2 Any dog, or wolf-hybrid allowed to become or remain a public nuisance as herein defined shall be in violation of the Ordinance and is subject to the provisions of this Ordinance.
- 3.3 Nothing in this Ordinance shall be construed to restrict accepted agricultural practices.

### **ARTICLE IV** **LICENSING, KEEPING, AND IMMUNIZATION OF DOGS** **AND WOLF-HYBRIDS**

- 4.1 Annually on or before April 1st, it shall be the duty of every person within the Town owning, keeping or harboring any a dog or wolf-hybrid more than six months old to:
  - (1) procure a license therefore, in accordance with Chapter 193, Title 20 of the Vermont Statutes, and
  - (2) cause the dog or wolf-hybrid to wear a collar, and
  - (3) attach to the collar a license tag and rabies tag
- 4.2 The Town may charge a fee for dog and wolf-hybrid licenses, as authorized by Chapter 193, Title 20 of the Vermont Statutes.
- 4.3 The dog or wolf-hybrid shall be inoculated against rabies as required in Chapter 193, Title 20 of the Vermont Statutes.

- 4.4 The owner or keeper of domestic pets and wolf-hybrids kept for breeding purposes may take out annually, on or before April 1, a special license for the domestic pets or wolf-hybrids, as authorized by 20 V.S.A., Section 3583.
- 4.5 The owner or keeper of two or more dogs or wolf-hybrids four months of age or older kept for sale or for breeding purposes, except for his or her own use, shall apply to the Town Clerk for a kennel permit, as authorized by 20 V.S.A., Section 3681.
- 4.6 Except when in a cage or on a leash and not causing a danger or nuisance, a wolf-hybrid shall be confined within a proper enclosure consisting of:
1. A locked fence or structure of sufficient height and sufficient depth into the ground to prevent the entry of young children and to prevent the animal from escaping. Fencing shall at a minimum consist of an 8 ft. high chain link fence with a 2 ft. overhang and a chain link, concrete apron, or asphalt apron to prevent digging out and a catch pen to avoid escape and ease veterinary care.
  2. A humane shelter for the animal.
- 4.7 The Selectboard may designate, from time to time, public places or special events where:
- a. no person shall bring to or keep or maintain, any dog or wolf-hybrid whether on or off a leash, or
  - b. where dogs and wolf-hybrids shall be on a leash at all times.

This includes, but is not limited to buildings, parks, parades, festivals, carnivals, concerts, playgrounds, recreation areas, school grounds or other places or events where the public may be in attendance.

This provision shall not prohibit the presence of dogs specially trained to assist the blind, disabled or handicapped or any dog being used by law enforcement or public safety officials within the course of their official duties.

Locations or events so designated shall post a minimum of one sign that dogs and wolf-hybrids are prohibited or a leash is required per designation by the Selectboard.

## **ARTICLE V** **ANIMAL CONTROL OFFICER**

- 5.1 It is the duty of an Animal Control Officer to investigate complaints of dog and wolf-hybrid nuisances and to enforce the provisions of this Ordinance.
- 5.2 Any Animal Control Officer is hereby authorized and empowered to obtain search warrants to enter onto private lands, to seize and to confine or impound dogs and wolf hybrids, and to take all reasonable and necessary measures to abate violations as herein defined.
- 5.3 The Selectboard shall designate the names of persons and their locations to receive dogs and wolf-hybrids for confinement or impoundment under the terms of this Ordinance.

## **ARTICLE VI**

## VIOLATIONS

A dog or wolf-hybrid in the following situations is hereby declared to be a public nuisance in violation of Article III above:

- 6.1 The dog or wolf-hybrid has not been inoculated against rabies as required in 20 V.S.A. Chapter 193; or
- 6.2 The dog or wolf-hybrid has not been licensed in accordance with 20 V.S.A. Chapter 193, or
- 6.3 The dog or wolf-hybrid is not wearing a collar with its current license tag attached to the collar in accordance with 20 V.S.A. Chapter 193; or
- 6.4 The dog or wolf-hybrid is a dangerous animal as determined by an Animal Control Officer; or
- 6.5 The dog or wolf-hybrid is being kept or maintained contrary to the conditions of a lawful order issued by the Selectboard under Article X of this ordinance; or
- 6.6 The dog or wolf-hybrid is running at large; or
- 6.7 The dog or wolf-hybrid is causing damage to the property of anyone other than its owner, by:
  1. Turning over garbage containers; or
  2. Doing damage to gardens, flowers, shrubs, vegetables, or lawns; or
  3. Injuring or worrying people, domestic animals, domestic pets, or wolf-hybrids; or
- 6.8 The dog or wolf-hybrid has defecated on private property other than that of its owner onto which the dog or wolf-hybrid has not been invited or on Public Roads or public property (including parking areas, lawns, flower beds, parks, and sidewalks) and the dog or wolf-hybrid owner does not remove the resulting material immediately and dispose of it in a sanitary manner; or
- 6.9 The dog or wolf-hybrid while running at large, is chasing and/or snapping at pedestrians, joggers, pets walked on a leash, bicyclists, vehicles, riders on horseback or is jumping onto people; or
- 6.10 The dog or wolf-hybrid is barking, whining, calling or howling for a continuous period of 15 minutes or more; or,
- 6.11 The dog or wolf-hybrid, whether kept on or off a leash, is at a public place or special event which has been designated by the Selectboard as a “Dogs Prohibited” or a “Leash Required” public place or special event according to Article IV, §4.7 of this Ordinance.
- 6.12 The owner or keeper of two or more dogs or wolf-hybrids four months of age or older kept for sale or for breeding purposes, except for his or her own use, has not received a kennel permit, as required by Article IV; or
- 6.13 The wolf-hybrid is not:
  1. Confined within a proper enclosure; or

2. In a cage; or
  3. On a leash,
- as required by Article IV.

**ARTICLE VII**  
**ENFORCEMENT AND PENALTIES**

7.1. Violations of Ordinance

Unless violation and penalty provisions specifically set forth elsewhere in this Ordinance provide otherwise, all violations of this Ordinance shall be handled according to the provisions of this Article.

7.2. Response to Violations by Animal Control Officer

When a dog or wolf-hybrid is found to be in violation of this Ordinance, the Animal Control Officer may take one or more of the following actions:

1. Issue a verbal warning to the owner.
2. Issue a written warning to the owner.
3. Serve the owner with a written notice stating the nature of the violation and providing a reasonable time limit for the satisfactory correction thereof. The offender shall, within the period of time stated, permanently cease and correct all violations. Any Person who continues any violation beyond the time limit specified in the written notice shall be issued a “Municipal Complaint” (ticket) pursuant to Subsection 5 of this Section.
4. Require that the dog or wolf-hybrid be restrained by a leash while off the premises of its owner, even outside the Dog Control Area.
5. Issue a “Municipal Complaint” (ticket) per the provisions of 24 V.S.A. 1974a and 1977 et. seq.
6. Confine or impound the dog or wolf-hybrid.

7.3. Fines

1. Any person who violates any provision of this ordinance and is issued a “Municipal Complaint” (ticket) under Article VII, shall be subject to a civil penalty of up to \$200 per day for each day that such violation continues.
2. An Issuing Municipal Official is authorized to recover a waiver fee, in lieu of a civil penalty, in the following amount, for any person who declines to contest a municipal complaint and pays the waiver fee:

First offense	\$35
Second offense	\$55
Third offense	\$75
Fourth offense	\$100
Fifth and subsequent Offenses	\$125

Offenses shall be counted on a calendar year basis.

3. An Issuing Municipal Official is authorized to recover civil penalties in the following amounts for each violation:

First offense	\$50
Second offense	\$75
Third offense	\$100
Fourth offense	\$175
Fifth and subsequent Offenses	\$200

Offenses shall be counted on a calendar year basis.

4. Each day in which any violation continues or occurs shall be deemed a separate offense.

7.4 Liability for Loss by the Town Due to Violation

Any Person violating any of the provisions of this Ordinance shall become liable to the Town for any expense, loss, or damage occasioned by the Town, including reasonable legal expenses, by reason of such offense.

7.5 Actions to Prevent, Restrain or Abate Violation

Notwithstanding any of the foregoing provisions, the Town may institute any appropriate action authorized by law, including injunction or other proceeding, to prevent, restrain, or abate any violation hereof, and in the case of emergency situations when, in the Town's determination, violations of the provision of the Ordinance may cause damage to human life or public property, the Town shall have the power to take whatever action is necessary to correct such violations.

7.6 Board of Health and Health Officer

Nothing in this ordinance shall be construed to prevent the Local Board of Health or Health Officer from carrying out their duties as prescribed in 18 V.S.A. Chapter 11.

**ARTICLE VIII**  
**CONFINEMENT AND IMPOUNDMENT**

- 8.1 Pursuant to 20 VSA Chapters 191 and 193, an Animal Control Officer is authorized to confine or impound any dog or wolf-hybrid which is violating this Ordinance or which:

- A. Is suspected of having been exposed to rabies; or
- B. Is believed to have been attacked by another animal which may be rabid; or
- C. Has been attacked by a wild animal; or
- D. Has an unknown rabies vaccination history.

- 8.2 In the event that a dog or wolf-hybrid is confined or impounded, the owner, if known, shall be notified within 24 hours by the Animal Control Officer. Notification shall be given by registered mail addressed to the last known address of the owner, if known, and also may be accomplished by in-person communication, or by telephone call. If the owner's address is not known, notification shall be posted by the Animal Control Officer in the Rockingham Town Clerk's Office and 2 other places in the Town for 10 days.

**ARTICLE IX**  
**DISPOSAL OF ANIMAL**

- 9.1 In the event that a dog or wolf-hybrid is suspected of exposing a human, pet, wolf-hybrid, or domestic animal to rabies, it shall be managed in according to the provisions of Title 20, Chapter 193, Subchapter 5, and the rules of the Vermont Department of Health and Article XI of this ordinance.
- 9.2 Except as provided in §9.1, when an Animal Control Officer reasonably suspects that a confined or impounded dog or wolf-hybrid:
1. has been running at large in violation of Article VI; or
  2. has been exposed to rabies; or
  3. has been attacked by a rabid animal,
- the Animal Control Officer may dispose of the animal in a humane manner, pursuant to Title 20, Section 3807.
- 9.3 If the dog or wolf-hybrid is unclaimed within 10 days of the notification of the owner or within 10 days of posting, the Animal Control Officer may dispose of the dog in a humane manner subject to Article XI below regarding confinement or impoundment for rabies control.
- 9.4 If the unclaimed dog or wolf-hybrid has been disposed of, the owner shall be liable for all costs incurred by the Town.
- 9.5 No confined or impounded dog or wolf-hybrid shall be released until all necessary licenses and vaccinations are obtained and until all fees associated with the confinement or impoundment are paid in full.

**ARTICLE X**  
**INVESTIGATION OF A DOMESTIC PET OR**  
**WOLF-HYBRID WHICH HAS BITTEN A PERSON**

When a domestic pet or wolf-hybrid has bitten a person while the domestic pet or wolf-hybrid is off the premises of its owner or keeper, and the person bitten requires medical attention for the attack, investigation by an Animal Control Officer shall be done pursuant to 20 VSA, Section 3546, as follows:

- 10.1 When a domestic pet or wolf-hybrid has bitten a person while the domestic pet or wolf-hybrid 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 Rockingham 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 required by sub-section 10.2 below.
- 10.2 The Selectboard, within seven days from receipt of the complaint, shall investigate the charges and hold a hearing on the matter. If the owner of the domestic pet or wolf-hybrid 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 the hearing and the facts of the complaint.
- 10.3 If the domestic pet or wolf-hybrid 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 domestic pet or wolf-hybrid is disposed of in a humane way, muzzled, chained, or confined. The

order shall be sent to the owner by certified mail, return receipt requested. A person who, after receiving notice, fails to comply with the terms of the order shall be in violation of Article VI of this ordinance. The Selectboard may seek injunctive relief as provided in 20 VSA 3550 (j).

- 10.4 The procedures provided in this Article shall only apply if the domestic pet or wolf-hybrid is not a rabies suspect. If a member of the Selectboard, an Animal Control Officer, veterinarian, game warden, health officer or deputy health officer determines that the animal is a rabies suspect, the provisions of Article XI of this Ordinance and of 20 V.S.A. subchapter 5 and the rules promulgated by the Vermont Department of Health shall apply until such time as it is determined that the domestic pet or wolf-hybrid is no longer a rabies suspect.

**ARTICLE XI**  
**MANAGEMENT OF BITING ANIMALS, RABIES SUSPECT**  
**ANIMALS, AND RABIES EXPOSED ANIMALS**

- 11.1 Domestic pets, domestic animals, or wolf-hybrids which have bitten a person, or have been exposed to rabies or are suspected of being infected with rabies shall be managed by the Rockingham Health Officer or Deputy Health Officer in accordance with 20 V.S.A. and Rules adopted by the Vermont Department of Health.
- 11.2 All costs associated with the management of the biting animal, rabies suspect animal, or rabies exposed animal shall be borne by the owner.

**ARTICLE XII**  
**SEVERABILITY/LIABILITY/AMENDMENTS**

- 12.1 If any portion of this Ordinance is held unconstitutional or invalid by a court of competent jurisdiction, the remainder of this Ordinance shall not be affected.
- 12.2 These rules and this Ordinance may be amended at any time by the Rockingham Selectboard pursuant to applicable provisions of the law.

**ARTICLE XIII**  
**ORDINANCE IN FORCE**

13.1 Date of Enactment

Adopted by the Town of Rockingham Selectboard this 7<sup>th</sup> day of October, 2008, in the State of Vermont, County of Windham, Town of Rockingham, at a duly warned and duly held meeting of said Selectboard.

13.2 Ordinance in Effect

This ordinance shall be in full force and effect sixty (60) days from the date of adoption.

Effective date: December 6, 2008.

Upon the effective date, this Ordinance shall amend the Town of Rockingham Animal Control Ordinance adopted October 18, 1994.

**ROCKINGHAM SELECTBOARD**

s/ Thomas MacPhee  
Thomas MacPhee, Chair

s/ Dennis Harty  
Dennis Harty, Vice-chair

s/ Ann DiBernardo  
Ann DiBernardo

s/ Peter Golec  
Peter Golec

s/ Robert Thomson  
Robert Thomson

ATTESTED BY: s/ Doreen Aldrich                      10/21/08  
Doreen Aldrich (Town Clerk)                      (date)

Adoption History

1. Agenda items at regular Selectboard meeting held on October 7, 2008.
2. Read and approved at regular Selectboard meeting on October 7, 2008, and entered in the minutes of that meeting which were approved on October 14, 2008.
3. Posted in 5 public places on October 9, 2008.
4. Notice of adoption published in the Eagle Times newspaper on October 14, 2008 with a notice of the right to petition.
5. Other actions (petitions, etc.)