

HARDWICK DOG CONTROL ORDINANCE

SECTION 1. AUTHORITY. This ordinance is adopted by the selectboard of the Town of Hardwick under authority of 20 V.S.A. § 3549, 24 V.S.A. §§ 2291 (10, 14, 15 & 21), 13 V.S.A. Chap 8, 24 V.S.A. Chapter 59, and the Town of Hardwick Charter.

SECTION 2. PURPOSE. The purpose of this ordinance is to regulate the keeping of dogs, to protect the health and safety of the public, domestic pets, domestic animals, and to protect the residents' quiet enjoyment of their homes and properties.

SECTION 3. DEFINITIONS. For purposes of this ordinance, the following words and/or phrases shall apply:

- A. **"Dog"** means any member of the canine species (*Canis familiaris*). For purposes of this Ordinance, this term, wherever used, shall also include wolf-hybrids.
- B. **"Enforcement Officer"**: Any town [*animal control officer, constable, police officer, or other law enforcement officer, town manager*] shall be the designated enforcement officer(s). Said designee(s) shall issue tickets and may be the appearing officer at any hearing.
- C. **"Owner"** means any person who owns a dog or has actual or constructive possession of a dog. The term also includes those persons who provide food and shelter to a dog.
- D. **"Running at large"** means that a dog is not:
 - 1. on a leash;
 - 2. in a vehicle;
 - 3. on the owner's property;
 - 4. on the property of another person with that person's permission;
 - 5. clearly under the verbal or non-verbal control of the owner; or
 - 6. hunting with the owner.
- E. **"Vicious dog"** means a dog that attacks any person or causes any person to reasonably fear attack or bodily injury from such dog, unless the person is trespassing on the property of the owner of the dog. The term shall also mean any dog that, while running at large attacks or harasses another domestic pet or domestic animal.
- F. **"Wolf hybrid"** means:
 - 1. An animal that is the progeny of a dog and a wolf (*Canis lupus* or *Canis rufus*);
 - 2. An animal that is advertised or otherwise described or represented to be a wolf hybrid; or

3. An animal that exhibits primary physical and/or behavioral wolf characteristics.

SECTION 4. DISTURBANCES AND NUISANCES. No owner shall allow a dog to become or remain a public nuisance as defined herein, or to be otherwise kept in violation of this Ordinance. A dog is hereby declared to constitute a public nuisance in the following situations:

- A. The dog is running at large in the town.
- B. The dog is harassing or attacking other domestic animals/pets or people unless such domestic animals/pets or people are trespassing on the private property of the owner of the dog.
- C. A female dog in heat is not confined to a building or other secured enclosure on the owner's property or while under the direct control of the owner.
- D. The dog is disturbing the quiet, comfort and repose of others by frequent, habitual or persistent barking, howling, crying or yelping.

SECTION 5. POOPER SCOOPER. The person in control of a dog that defecates in any public area or on the private property of another person within the Hardwick Urban Compact Limits shall immediately remove the fecal material and dispose of it in a sanitary manner.

SECTION 6. COLLAR AND LICENSE.

- A. Each dog shall be licensed according to the laws of this state and shall wear a collar or harness with the current license attached. A dog that is visiting from out of state must wear a collar or harness with a current license from its home state attached.
- B. A dog that is found without a collar or harness and license shall be immediately impounded under authority of 20 V.S.A. Sect. 3806 and shall be managed under the provisions of that statute.

SECTION 7. HUMANE KEEPING OF DOGS

Under authority of 24 VSA 2291 (21), consistent with the provisions of 13 VSA Chap 8, and restricted to regulation of the humane keeping of dogs only, violators of the following provisions shall be subject to all penalties described in Section 11.

- A. No owner shall allow a dog to be tormented, abandoned, poisoned, cruelly beaten, or killed by the cause of undue pain or suffering.

- B. No owner shall deprive a dog of adequate food, water, shelter, rest, sanitation, or necessary medical attention.
- C. No owner shall maintain a dog out-of-doors without suitable housing that assures it is protected from wind and draft and from excessive sun, rain, and other environmental hazards throughout the year.
- D. No owner shall allow a dog to be tied or restrained in a manner that is inhumane or detrimental to its health or welfare, or chained to a shelter with a chain less four times the length of the dog.
- E. No owner shall leave a dog unattended in a standing or a parked motor vehicle in a manner that would endanger the health or safety of the dog. Any officer or member of a fire and rescue service may use reasonable force to remove any such dog from a motor vehicle.

If an enforcement officer witnesses a situation in which the dog's life or health is in jeopardy, he may seize the dog without a warrant [13 VSA 354 (3)].

SECTION 8. IMPOUNDMENT.

- A. An Enforcement Officer is authorized to confine or impound any dog found in violation of this Ordinance or any dog which presents an imminent danger to people or other animals, or when the dog:
 - 1. is suspected of having been exposed to rabies;
 - 2. is believed to have been attacked by another animal which may be rabid;
 - 3. has been attacked by a wild animal;
 - 4. has been running at large;
 - 5. has an unknown rabies vaccination history; or
 - 6. is the subject of a written complaint to the selectboard that the 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.
- B. An Enforcement Officer who has attempted to seize a dog and has not been permitted to search for or take the dog, shall apply to a judicial officer authorized to issue search warrants for a warrant to search the properties of the owner of the dog or any other property if the Enforcement Officer has reasonable cause to believe that the dog may be on the property.

SECTION 9. NOTICE OF IMPOUNDMENT AND RELEASE FROM IMPOUNDMENT.

- A. The Enforcement Officer who impounds a dog shall, within 24 hours, give notice to the owner thereof, either by in-person communication, telephone call, or by written statement sent to the last known address of the owner. Such notice shall inform the owner of the nature of the violations, the location of the dog and the

steps that are necessary to have the dog returned to the owner. If the owner's address is unknown, the Enforcement Officer shall post notification in the Town Clerk's Office and the Post Office for a 7-day period providing a description of the dog, including breed, size, color and sex, where and when it was apprehended, and whether the dog is licensed.

- B. If the dog is unclaimed after seven (7) days of the notification to the owner or within seven (7) days of posting, the Enforcement Officer may transfer possession by removing the dog to an adopting shelter, selling or giving the dog away, or humanely disposing of the dog, taking a receipt from the purchaser or recipient of the dog. Day shall mean business days M-F 8-4PM.
- C. If the unclaimed dog has been removed to an adopting shelter, sold, given away, or humanely disposed of, the owner shall be liable for all applicable penalties and costs incurred by the Town.
- D. No impounded dog shall be released until all necessary licenses and vaccinations are obtained, and all applicable penalties and costs associated with the impoundment are paid in full by the owner.
- E. When an Enforcement Officer reasonably suspects that an impounded dog is exhibiting symptoms consistent with exposure to rabies, the Enforcement Officer may dispose of the dog in a humane manner. In the event that a dog is suspected of exposing a human to rabies, the Local Health Officer shall be immediately notified and proceed in accordance with the rules of the Vermont Department of Health.

SECTION 10. INVESTIGATION OF VICIOUS DOGS

- A. A person may file a written complaint with the Selectboard alleging that a dog is a vicious dog. The complaint shall contain the time, date and place where the attack or harassment occurred, the name and address of the victim(s) or owner of the domestic pet or animal attacked or harassed, and any other facts that may assist the Selectboard in conducting its investigation.
- B. 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 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. In determining the amount of civil penalty, and whatever order may be required for the protection of persons, the selectboard shall consider the following:
 - 1. The degree of actual or potential impact on public health, safety and welfare resulting from the violation.
 - 2. Whether the respondent has cured the violation.
 - 3. The presence of mitigating circumstances.
 - 4. Whether the respondent knew or had reason to know the violation existed.

5. The respondent's record of compliance.
 6. The deterrent effect of the penalty.
 7. The costs of enforcement.
 8. The length of time the violation has existed.
- C. If the dog is found to be a Vicious Dog, 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. A person who, after receiving notice, fails to comply with the terms of the order shall be subject to injunctive and any other relief deemed appropriate by a court of competent jurisdiction.
- D. After notification that a dog has been deemed to be Vicious, and if impoundment has not occurred, it shall be unlawful for the owner or person harboring the Vicious dog to sell it or give it away, or to permit it to be taken beyond Town limits, except with the permission of the Selectboard or under the care of a licensed veterinarian.
- E. The procedures provided in this section shall apply regardless of whether the dog is a rabies suspect. If a member of the Selectboard or a municipal official designated by the Selectboard determines that the dog is a rabies suspect, the Selectboard shall immediately notify the Town Health Officer who shall proceed in accordance with the rules of the Vermont Department of Health. If the dog is deemed healthy, the terms and conditions set forth in the Selectboard's order shall be enforced.

SECTION 11. PENALTIES AND COSTS.

- A. Any person who violates the provisions of this Ordinance shall be subject to the penalties and waiver penalties set forth below. Waiver penalties apply when an alleged violator pays the penalty without contesting the violation. Each day a violation continues shall constitute a separate violation.
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| 1. First offense | Written warning |
| 2. Second offense | \$50.00 full penalty/\$35.00 waiver penalty |
| 3. Third offense | Impoundment & impoundment costs, plus \$75.00 full penalty/\$50.00 waiver penalty |
| 4. Subsequent offenses | Impoundment & impoundment costs, plus \$100.00 full penalty/\$75.00 waiver penalty. |
| 5. Impoundment costs shall be set annually by the Selectboard. | |
| 6. Penalties for any person who violates Section 5 of this Ordinance shall be written warning for the first offense, \$15.00 for the second offense, and \$30.00 for each subsequent offense. | |
- B. When a dog complaint has been filed with the Hardwick Police Dept. and the alleged violation does not rise to a level of infraction which by law would require

a selectboard hearing, a Restorative Justice Board hearing may be held, at the discretion of the enforcing officer. A neighbor, group of neighbors, or concerned citizens may request this facilitated discussion, and the offending dog owner must willingly participate. Interviews and/or written statements of all parties will be processed, followed by a meeting in which everyone describes how they are affected by the situation, so that the offending party will have a comprehensive picture of the impact of the offense. Written statements including needs for resolution could be submitted to the group, and the group would then collectively determine how to go forward to satisfy the interests of all participants. If the offending dog owner abides by the recommended contract of conditions, the violation/case would be dropped by the Police Dept. It is the policy of the RJB to allow only one participation by any violator, in this program. Subsequent violations will be dealt with according to the Dog Ordinance Section 11 Penalties and Costs, or the possibility of a selectboard hearing.

- C. 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.

SECTION 12. ENFORCEMENT. This is a civil ordinance and shall be enforced by an enforcement officer in the Vermont Judicial Bureau in accordance with 24 V.S.A. §§ 1974a et seq. In addition to the enforcement procedures available before the Judicial Bureau, the Selectboard may commence civil action to obtain injunctive and any other appropriate relief authorized by law.

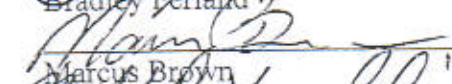
SECTION 13. OTHER LAWS. This ordinance is in addition to all other Ordinances of the Town of Hardwick and all applicable laws of the State of Vermont.

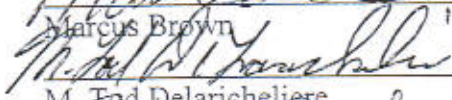
SECTION 14. SEVERABILITY. If any section of this ordinance is held by a court of competent jurisdiction to be invalid, such finding shall not invalidate any other part of this ordinance.

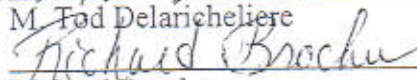
SECTION 15. EFFECTIVE DATE. This ordinance shall become effective 60 days after its adoption by the Selectboard. If a petition is filed under 24 V.S.A. § 1973, that statute shall govern the taking effect of this ordinance.

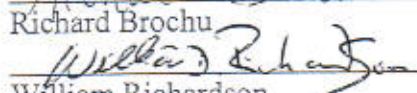

Bradley Ferland

Ratified May 1, 2008


Marcus Brown


M. Tod Delaricheliere


Richard Brochu


William Richardson

Adoption History

1. Agenda item at regular selectboard meeting held on May 1, 2008.
2. Read and approved at regular selectboard meeting on May 1, 2008 and entered in the minutes of that meeting which were approved on 5/15/08 & 6/5/08.
3. Posted in public places on May 2, 2008.
4. Notice of adoption published in the Hardwick Gazette newspaper on May 14, 2008 with a notice of the right to petition.
5. Other actions [petitions, etc.]