

TOWN OF MENDON

ANIMAL CONTROL ORDINANCE

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Section 1: AUTHORITY AND ADOPTION

Pursuant to 20 V.S.A. 3549 and 24 V.S.A. 2291(10) and 1973(e) the following ordinance is promulgated in order to regulate the keeping of domestic pets and wolf-hybrids in the town of Mendon.

Any Animal Control or Dog Ordinance previously adopted by the Town of Mendon is hereby amended by deleting such ordinance in its entirety upon the effective date of the ordinance as set forth below pursuant to 24 V.S.A. 1971 et seq., as amended.

Section 2: DEFINITIONS

A. Commissioner shall mean the Commissioner of the Department of Agriculture, Food and Markets, and shall include his or her designee.

B. Selectboard shall mean the legislative body of the Town of Mendon as it may appear from time to time.

C. Enforcement Official shall mean any Constable, Police Officer, Pound keeper or Animal Control Officer(s).

D. Animal Control Officer shall mean the First Constable elected by the Town of Mendon and such other individual(s) as are duly appointed by the Selectmen to administer this Ordinance.

E. Pound and Pound keeper shall mean that place and that person, respectively, designated from time to time by the Selectmen of the Town of Mendon, to keep domestic pets and wolf-hybrids found by the Enforcement Officer to be violating any provision of this ordinance.

F. Cat shall mean an animal, both male and female, which is the progeny or descendent of the species *felis catus* or *felis domestica*.

G. Dog shall mean an animal, both male and female, which is the progeny or descendent of the species *canis familiaris*.

H. Ferret shall mean an animal, both male and female, which is the progeny or descendent of the species *mustela putorius furo*.

I. Wolf-hybrid shall mean an animal which is the progeny of a 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 keeper or an animal which exhibits primary physical and behavioral wolf characteristics.

J. Domestic Pet shall mean any dog, cat or ferret. The term shall also include such other domestic animals as the Commissioner shall establish, from time to time, by rule.

Section 2: DEFINITIONS (continued)

K. Owner or Keeper shall mean any person, persons or entity who owns, harbors, keeps or permits any domestic pet or wolf-hybrid to be kept in or about their buildings or premises, and includes any person who has actual or constructive possession of a domestic pet or wolf-hybrid. The term shall also include those persons who provide feed and shelter to a domestic pet or wolf-hybrid. However, it is not the intent of the Selectmen to require a person to be responsible under this chapter for feral animals that take up residence in a building other than a person's home, even if the person occasionally provides feed to the animal(s).

L. Running at large shall mean a dog or wolf-hybrid 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.

M. Excessive Noise shall mean any noise created by a domestic pet or wolf-hybrid that is audible to those persons, other than the keeper or owner of the animal, who are in a location where they are lawfully permitted to be, that is of such volume, duration or frequency that to a reasonable person would be improper and irritating.

N. Vicious Domestic Pet or Wolf-Hybrid shall mean a domestic pet or wolf-hybrid which causes any person to reasonably fear a bodily injury by attacking or threatening to attack any person, other than persons who are in the act of trespassing upon the private property of the owner or keeper of the domestic pet or wolf-hybrid.

Section 3: RUNNING AT LARGE

A. No owner or keeper shall permit a dog or wolf-hybrid owned by him or under his or her keeping or control to run at large.

- B. An owner or keeper who permits a dog or wolf-hybrid 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 4: DISTURBANCES AND NUISANCES

A. An owner or keeper shall not permit a domestic pet or wolf-hybrid to commit a disturbance or nuisance as hereinafter defined:

1. make excessive noise so as to disturb adjoining landowners or pedestrians
2. cause damage to personal property
3. scatter refuse
4. harass pedestrians, bicyclists or other passersby
5. attack persons or other animals
6. obstruct traffic
7. 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 the private property of the owner or keeper of the domestic pet or wolf-hybrid, or
8. otherwise be a nuisance or create a disturbance.

B. An owner or keeper shall not permit a female domestic pet or wolf-hybrid in heat to be outside a building or secured enclosure. A violation of this provision shall be considered a nuisance.

C. Owners or keepers who permit a domestic pet or wolf-hybrid 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: IMPOUNDMENT AND ENFORCEMENT

A. The Animal Control Officer(s) shall be the primary Enforcement Official(s) under the provisions of this Ordinance.

B. In the absence of an Animal Control Officer, or in a situation of an emergency nature, any Enforcement Official may enforce the provisions of this Ordinance.

C. Any Enforcement Official, in addition to any other remedies available by statute or as are hereinafter set forth, may apprehend any domestic pet or wolf-hybrid found running at large or creating a disturbance or nuisance contrary to the provisions of this ordinance, and may impound such domestic pet or wolf-hybrid with the pound keeper.

D. The Animal Control Officer(s) or Enforcement Official(s) may use all reasonable and lawful methods for catching and impounding domestic pet or wolf-hybrid found to be in violation of this Ordinance, including the use of tranquilizing and marking apparatus.

E. An Enforcement Official shall make a reasonable investigation to determine whether a violation of this ordinance has occurred when an appropriate complaint is lodged with the Selectboard or any Enforcement Official. If the Enforcement Official reasonably concludes pursuant to his or her investigation

that a domestic pet or wolf-hybrid is running at large, or is creating a disturbance or nuisance, he or she may impound said domestic pet or wolf-hybrid with the Pound keeper.

F. An appropriate complaint shall be deemed to have been made when a person gives the Selectboard or other Enforcement Official a full description of the domestic pet or wolf-hybrid, including breed, size, color and other distinguishing features, which description must be sufficient for an Enforcement Official to make proper identification. If such description is insufficient for a proper identification, no domestic pet or wolf-hybrid shall be impounded. The person who made such complaint shall file in writing with the Selectboard or other Enforcement Official a written complaint on a form furnished by the Town of Mendon setting forth his or her name, address, phone number, description of the domestic pet or wolf-hybrid and circumstances under which the domestic pet or wolf-hybrid was believed to be in violation of this Ordinance. If no written complaint is file, the Enforcement Officer, at his or her option, may release the domestic pet or wolf-hybrid upon receipt of payment of any impoundment fees or boarding fees which may be due.

G. The Enforcement Official, upon apprehending and impounding any domestic pet or wolf-hybrid, shall make a complete registry, entering the breed, color and sex of such domestic pet or wolf-hybrid , and whether the domestic pet or wolf-hybrid is licensed and shall, if possible after reasonable inquiry, notify the owner or keeper. If a domestic pet or wolf-hybrid is licensed, the Enforcement Officer shall enter the name and address of the owner or keeper and number of the license tag. He or she shall immediately forward a duplicate registry to the Town Clerk to be filed with the domestic pet or wolf-hybrid licenses.

Section 6: RELEASE FROM IMPOUNDMENT

A. Upon delivery to the pound the impounding Enforcement Official shall notify the owner or keeper, if the domestic pet or wolf-hybrid is licensed and has identifying tags. Notice shall be sufficient if given to its owner or keeper by certified mail. The domestic pet or wolf-hybrid shall be held for five (5) working days from mailing of notice unless claimed earlier.

B. If the domestic pet or wolf-hybrid is unlicensed, the Enforcement Official shall notify the owner or keeper by certified mail, if known, and shall post a notice containing a description of the domestic pet or wolf-hybrid in the Town Clerk's Office for five (5) working days.

C. If the owner or keeper does not claim the domestic pet or wolf-hybrid within five (5) working days from mailing or posting of the notice, the domestic pet or wolf-hybrid may given to any person who pays the Pound keeper's fees and the cost of any necessary shots and license fees.

D. No domestic pet or wolf-hybrid shall be released unless the owner or keeper shall first have applied for and received a valid current license, and all impoundment, boarding and license fees, and the cost of any necessary shots, as required herein, have been paid.

E. If no person claims an impounded domestic pet or wolf-hybrid on or within 10 days of the mailing or posting of notice, the domestic pet or wolf-hybrid may be humanely destroyed, and the Town of Mendon shall pay all necessary costs incident thereto.

Section 7: IMPOUNDMENT FEES

A. Any domestic pet or wolf-hybrid impounded under the provisions of this ordinance shall be released only on payment of a \$20.00 impoundment fee; provided however, that any domestic pet or wolf-hybrid impounded for the third time in any fiscal year shall be released on payment of a \$35.00 impoundment fee, and if so captured four (4) or more times in any fiscal year, it shall be released only upon payment of a \$60.00 impoundment fee.

B. In addition to the impoundment fees charged herein, there shall be a boarding charge of \$8.00 per day or fraction thereof during which the domestic pet or wolf-hybrid is impounded.

C. The Selectboard is hereby empowered to increase the impoundment fees and boarding charges provided for in this section by appropriate resolution.

Section 8: INVESTIGATION OF BITES BY DOMESTIC PETS OR WOLF-HYBRIDS

A. 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 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 subsection (B) of this section.

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 or keeper of the domestic pet or wolf-hybrid which is the subject of the complaint can be ascertained with due diligence, said owner or keeper shall be provided with a written notice of the time, date and place of hearing and the facts of the complaint.

C. 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 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. 3551, as amended.

D. The provisions provided in this section shall apply only if a domestic pet or wolf-hybrid is not a rabies suspect.

E. If a member of the Selectboard or an Animal Control Officer determines that a domestic pet or wolf-hybrid is a rabies suspect, the provisions of 20 V.S.A. Chapter 193, Subchapter 5, as amended, and such rules as adopted by the Commissioner shall apply.

Section 9: CONFINING, IMPOUNDING AND EUTHANASIA OF SUSPECT OR RABID ANIMALS

A. Any Enforcement Official may confine or impound any domestic pet or wolf-hybrid when:

1. It is suspected of having been exposed to rabies;
2. It is believed to have been attacked by another animal which may be rabid;
3. It has been attacked by a rabid animal;
4. It has been running at large in violation of any of the provisions of this ordinance.
5. It has an unknown rabies vaccination history.

B. In the event that a domestic pet or wolf-hybrid is confined or impounded under this section, the owner or keeper, if known, shall be notified within 24 hours. Notification may be accomplished by in-person communication, by telephone call, or by written statement sent to the last known address of the owner. If the owner or keeper's address is not known, notification may be posted in the Town Clerk's office and other usual places for public notice for a one-week period.

C. Any domestic pet or wolf-hybrid which is considered a rabies suspect shall be managed in accordance with the rules of the Department of Health.

D. The owner or keeper of any domestic animal or wolf-hybrid that is a suspect rabid animal, as defined in this section, which is confined or impounded, or euthanized for the purpose of testing for rabies, shall be responsible for all costs associated with said confinement, impoundment, euthanization and the rabies testing.

E. The Town of Mendon shall not be responsible for damages incurred in euthanization and rabies testing, or be liable for the value of such animals.

Section 10: RIGHT TO KILL DOMESTIC PETS OR WOLF HYBRIDS

A. A person may kill a domestic pet or wolf-hybrid that suddenly assaults him or her or when necessary to discontinue an attack upon the person or another person provided the attack or assault does not occur while the domestic pet or wolf-hybrid is restrained, within an enclosure containing the domestic pet or wolf-hybrid, or on the premises of the owner. 20 V.S.A. 3545(a)

B. A domestic pet or wolf-hybrid found wounding, killing or worrying another domestic pet or wolf-hybrid, a domestic animal or fowl may be killed when the attendant circumstances are such that the killing is reasonably necessary to prevent injury to the animal or fowl which is the subject of the attack. 20 V.S.A. 3545(b)

Section 11: LICENSING

A. A person who owns, harbors or keeps a dog or wolf-hybrid more than six months old shall annually on or before April 1 cause it to be registered, numbered, described and licensed on a form provided by the Mendon Town Clerk, and shall pay for the license those amounts permitted or required by 20 V.S.A. 3581, as amended. If the license fee for any dog or wolf-hybrid is not paid by April 1, its owner or keeper may thereafter procure a license for that license year by paying a fee of fifty percent in excess of that otherwise required.

B. Before a person shall be entitled to obtain a license for a spayed female or neutered male dog or wolf-hybrid, he or she shall exhibit to the clerk a certificate signed by a duly licensed veterinarian showing that the female or male dog or wolf-hybrid has been sterilized.

C. A license surcharge fee of \$1.00 per license is mandated by the State of Vermont, which will be forwarded to the State Treasurer to be used for rabies control programs. This surcharge shall not be considered to part of the license fee for the purpose of calculating a penalty for late payment.

D. A license fee surcharge of up to \$10.00 per license is hereby implemented by the Selectboard for the sole purpose of funding a domestic pet or wolf-hybrid control program. This surcharge shall not be considered to part of the license fee for the purpose of calculating a penalty for late payment.

E. Before obtaining a license for a dog or wolf-hybrid six months of age or older, a person shall deliver to the town clerk a certificate or a certified copy thereof signed by a duly licensed veterinarian, stating that the dog or wolf-hybrid has received a current vaccination against rabies with a vaccine approved by the Commissioner, and the person shall certify that the dog or wolf-hybrid described in the certificate or copy is the dog or wolf-hybrid to be licensed. The Town Clerk shall keep the certificates or copies thereof on file. The owner of any dog or wolf-hybrid shall maintain a copy of the rabies vaccination form and provide it to state and Mendon officials upon request.

F. Any dog or wolf-hybrid impounded pursuant to this section may be released to its owner or keeper only when said dog or wolf-hybrid is properly licensed with the Town of Mendon and all impoundment fees set forth in Section 7 herein are paid. Unclaimed dogs or wolf-hybrids shall be disposed of in accordance with the provisions of Section 6 herein.

G. Pursuant to 20 V.S.A. 3590, as amended, the Board of Selectmen shall annually certify a list of unlicensed dogs or wolf-hybrids as of May 30. Such list shall be given to the Town Clerk and/or Animal Control Officer for licensing and further action as required by law.

Section 12: DESIGNATION AS A CIVIL ORDINANCE; ADDITIONAL REMEDIES

A. For the purposes of 24 V.S.A. 1971 this Ordinance is designated as a civil Ordinance.

B. In addition to the remedies provided herein or otherwise available at law, this ordinance may be enforced pursuant to 20 V.S.A. 3550, as amended, or 24 V.S.A. 1974(a), as amended, at the election of any Enforcement Official who shall be, and is hereby, designated as the issuing municipal official for the purpose of pursuing civil remedies under 24 V.S.A. 1977(b) et seq., as amended. If the Enforcement Official seeks to enforce this ordinance pursuant to 20 V.S.A. 3550, as amended, said official shall notify the Selectboard of this election, who shall forthwith issue the notice as required by 24 V.S.A. 3550(e), as amended.

Section 13: CIVIL PENALTIES

A. 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:

1. At the option of the Enforcement Official, the issuance of a warning letter notifying the owner or keeper to license the domestic pet or wolf-hybrid immediately, if applicable, or take other action to prevent the domestic pet or wolf-hybrid from causing a disturbance or nuisance or running at large.

2. A fine of \$50.00 for the first and second violation, \$75.00 for the third violation, and \$100.00 for each violation thereafter.

3. Each day that the violation continues shall constitute a separate violation.

4. 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.

Section 14: SEVERABILITY

Any part or provision of this ordinance shall be considered severable, and the invalidity of any part or section will not be held to invalidate any other part or provision of this ordinance.

Approved on this 10th day of April, 1995

/s/ J. Cortland Jones, Chairman

/s/ Leo Lawrence

/s/ Ira M. Pike