

DRAFT

TOWN OF South Hero

ORDINANCE REGULATING DOGS AND WOLF-HYBRIDS

SECTION 1. AUTHORITY. This ordinance is adopted by the Selectboard of the Town of South Hero under authority of 20 V.S.A. § 3549, 24 V.S.A. §§ 2291 (10), (14), and (15), and 24 V.S.A. Chapter 59.

SECTION 2. PURPOSE. The purpose of this ordinance is to regulate the keeping of dogs and wolf hybrids and to provide for their leashing, muzzling, restraint, impoundment and destruction, in order to protect the public health and safety of the Town, and preserve the quiet enjoyment of its residents' homes and properties.

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

- A. "Dog" means any member of the canine species. For purposes of this ordinance, this term shall also include "wolf-hybrids" and "working farm dogs" except as otherwise stated.
- B. "Domestic animal" means cattle, sheep, goats, equines, deer, American bison, swine, poultry, pheasant, Chukar partridge, Coturnix quail, psittacine birds, ferrets, camelids, ratites (ostriches, rheas, and emus), and water buffalo. The term shall include cultured fish propagated by commercial fish farms.
- C. "Domestic pet" or "pet" means any domestic dog, domestic cat, or ferret.
- D. "Enforcement Officer" means any Town Constable, Police Officer, Animal Control Officer, Humane Officer, or any other person designated as an Enforcement Officer by the Selectboard.
- E. "Impoundment" means being held by the Town at a place designated by the Selectboard. Such place may or may not be operated by the Town, and may or may not be within Town limits.
- F. "Owner" means any person who has actual or constructive possession of a dog. The term also includes those persons who provide food and shelter to a dog.
- G. "Potentially vicious dog" means a dog that, while running at large: inflicts minor injuries on a person not necessitating medical attention; chases, worries, threatens to attack or attacks another domestic pet or domestic animal; causes damage to personal or real property; chases a person; or causes any person to reasonably fear attack or bodily injury from such dog. This definition shall not apply if the dog was protecting or defending itself, its offspring, another domestic pet or animal or a person from attack or assault or the person attacked or threatened

by the dog was engaged in teasing, tormenting, battering, assaulting, injuring or otherwise provoking the dog.]

H. “Premises” means the home and real property of the dog owner.

I. “Running at large” means that a dog is not:

1. on a leash; or
2. in a vehicle; or
3. on the owner’s premises;
4. on the premises/property of another person with that person’s permission.

J. “Wolf hybrid” means an animal that:

1. is the progeny of a dog and a wolf (*Canis lupus* or *Canis rufus*); or
2. is advertised or otherwise described or represented to be a wolf hybrid; or
3. exhibits primary physical and/or behavioral wolf characteristics.

K. “Working farm dog” means a dog that:

1. is bred or trained to herd or protect livestock or poultry or to protect crops; and
2. is used for those purposes; and
3. is registered as a working farm dog pursuant to State law.

SECTION 4. NUISANCES.

A. **Prohibitions.** An owner of a dog shall not allow, permit, or suffer such dog to create a nuisance. The following activities shall be deemed nuisances:

Nuisance One: Lack of current license and/or rabies tag

A dog without a collar or harness with the current license and/or valid rabies tag securely attached.

Nuisance Two: Running at large

A dog running at large in the Town.

Nuisance Three: Failure to remove waste

A dog that defecates in any public area or on the private premises of another person and whose owner does not immediately remove the fecal material and dispose of it in a sanitary manner.

Nuisance Four: Unconfined dog in heat

A female dog in heat not confined to a building or other secured enclosure, except while under the direct control of the owner.

Nuisance Five: Disturbing the Peace

A dog that disturbs the quiet, comfort and repose of others by barking, whining, calling, or howling for a continuous period of *[insert number]* minutes or more.

Nuisance Six: Potentially vicious dog

A dog that while running at large: inflicts minor injuries on a person not necessitating medical attention; chases, worries, threatens to attack or attacks another domestic pet or domestic animal; causes damage to personal or real property; chases a person; or causes any person to reasonably fear attack or bodily injury from such dog. This definition shall not apply if the dog was protecting or defending itself, its offspring, another domestic pet or animal or a person from attack or assault or the person attacked or threatened by the dog was engaged in teasing, tormenting, battering, assaulting, injuring or otherwise provoking the dog.

- B. **Exemptions for Working Dogs.** The provisions of the sections pertaining to running at large and disturbing the peace shall not apply to working farm dogs if the working farm dog is:
1. barking in order to herd or protect livestock or poultry or to protect crops; or
 2. running at large in order to herd or protect livestock or poultry or to protect crops.

SECTION 5. COLLAR AND LICENSE. 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. A dog that is found without a collar or harness and license shall be in violation of this Ordinance and may be immediately impounded.

SECTION 6. ENFORCEMENT. A violation of this Ordinance shall be a civil matter which may be enforced in the Vermont Judicial Bureau or in the *[insert name of county]* County Superior Court, at the election of the *[insert either "Selectboard" or "Enforcement Officer"]*.

Violations enforced in the Judicial Bureau shall be in accordance with the provisions of 24 V.S.A. §§ 1974a and 1977 et seq. For purposes of enforcement in the Judicial Bureau, any Enforcement Officer shall have authority to issue tickets and represent the Town at any hearing.

Violations enforced in the Superior Court shall be in accordance with the Vermont Rules of Civil Procedure. The Town may pursue all appropriate injunctive relief.

SECTION 7. PENALTIES AND COSTS.

A. The Enforcement Officer is authorized to recover civil penalties for violations of this Ordinance in the following amounts for each violation:

Failure to remove waste

- 1st Offense: warning or \$___ fine
- 2nd Offense: \$___ fine
- 3rd & Subsequent Offense: \$___ fine

- Waiver Fee: \$___
- Waiver Fee: \$___
- Waiver Fee: \$___

Disturbing the peace

1st Offense: warning or \$___ fine	Waiver Fee: \$___
2nd Offense: \$___ fine	Waiver Fee: \$___
3rd & Subsequent Offense: impoundment and/or \$___ fine	Waiver Fee: \$___

Unconfined Dog in Heat

1st Offense: warning or impoundment and/or \$___ fine	Waiver Fee: \$___
2nd Offense: impoundment and/or \$___ fine	Waiver Fee: \$___
3rd & Subsequent Offense: impoundment and/or \$___ fine	Waiver Fee: \$___

Lack of current license and/or rabies tag

1st Offense: warning or impoundment and/or \$___ fine	Waiver Fee: \$___
2nd Offense: impoundment and/or \$___ fine	Waiver Fee: \$___
3rd & Subsequent Offense: impoundment/or and \$___ fine.	Waiver Fee: \$___

Running at large

1st Offense: warning or impoundment and/or \$___ fine	Waiver Fee: \$___
2nd Offense: impoundment and/or \$___ fine	Waiver Fee: \$___
3rd & Subsequent Offense: impoundment and/or \$___ fine	Waiver Fee: \$___

[Optional, See Guidance: *Potentially vicious dog*

<i>1st Offense: warning or impoundment and/or \$___ fine</i>	<i>Waiver Fee: \$___</i>
<i>2nd Offense: impoundment and/or \$___ fine</i>	<i>Waiver Fee: \$___</i>
<i>3rd Offense: impoundment and/or \$___ fine</i>	<i>Waiver Fee: \$___</i>

- B. The Enforcement Officer is authorized to recover a waiver fee in lieu of a civil penalty, in the stated amount, for any person who declines to contest a municipal complaint and pays the waiver fee.
- C. Determining the sequences of offenses for violations of this Ordinance shall be as follows: a subsequent violation that is identical to, and that occurs within ___ months of, a previous violation shall be considered a higher offense (i.e., second, third, or subsequent offense). Any subsequent identical violation that occurs after ___ months of a previous identical violation shall be considered a new first offense.
- D. **Reckless Dog Owner.** Any owner who has violated this Ordinance ___ times, whether the offenses are identical or not, within a ___ month period shall provide proof to the Enforcement Officer of successful completion of a behavior modification program, pre-approved by the Selectboard, and designed to improve the owner’s understanding of dog ownership responsibilities, within ___ months from the date of notification. The Enforcement Officer shall

issue a notification of this requirement, in writing by regular mail postage prepaid, to the owner's last known address. Failure to provide such certification within the time allotted shall subject the offending dog(s) to immediate seizure and impoundment.

- E. For purposes of calculating the sequence of offenses, offenses shall be counted against the owner.
- F. A warning shall not be counted towards the calculation of the number of offenses under this Ordinance.

SECTION 8. IMPOUNDMENT.

- A. **Grounds for Impoundment.** Any dog may be immediately impounded if the dog:
 - 1. has been determined by an Enforcement Officer to be a "potentially vicious dog," which presents an imminent danger to people or other animals;
 - 2. has reportedly bitten a person off [insert "or on" if the ordinance will apply to all dog bites, regardless of location] the premises of its owner;
 - 3. is in violation of State licensing law;
 - 4. has an unknown rabies vaccination history or is suspected of having been exposed to rabies;
 - 5. is running at large;
 - 6. is an unconfined dog in heat; or
 - 7. is found without a collar or harness and license.
- B. **Notice of Impoundment.** The officer who impounds a dog shall, within twenty-four (24) hours, give notice to the owner thereof either personally, by telephone call, or by regular mail postage prepaid at the owner's last known address. Such notice shall inform the owner of the nature of the violations, the dog's location, and the necessary steps to have it returned to the owner.

If the owner of the dog is unknown, the officer who impounds a dog shall, within twenty-four (24) hours of impoundment, post a public notice. Notification shall be posted in the town clerk's office and other usual places for public notice for a ten (10) calendar day period. The public notice shall include a description of the dog, including any significant marks of identification, and when and where it was impounded or found by the person placing the dog in the town's custody. The public notice must also declare that, unless the owner 1) claims the dog, 2) pays all expenses incurred by the town for treatment, boarding and care of the dog, and any applicable penalties, and 3) takes all necessary remedial action within ten (10) calendar days following posting, the town may place the dog in an adoptive home or transfer it to a humane society or rescue organization. If the dog cannot be placed in an adoptive home or transferred to a humane society or rescue organization, it may be destroyed in a humane way.

- C. **Release from Impoundment.** Impounded dogs shall be released to the owner only after payment of all penalties and impoundment fees (including, but not limited to, boarding, food, and

veterinary expenses), the final disposition of a potentially vicious dog or vicious dog hearing if applicable, and after all necessary remedial action, as determined by the enforcement officer in consideration of the violation committed, is taken by the owner. Remedial action shall include, but is not limited to, such actions as providing a collar and current license; verification of certification of current vaccination against rabies; payment of all applicable fines or waiver fees; and proof of satisfactory successful completion of a program designed to improve the owner's understanding and execution of dog ownership responsibilities.

If the owner of a dog impounded under the provisions of this ordinance refuses to take the remedial action necessary to secure the dog's release within ten (10) calendar days following notice of impoundment or gives notice either personally, by telephone call, or in writing to the town of forfeiture of ownership before that time, the dog may be placed in an adoptive home, transferred to a humane society or rescue organization; or, if the town is unable to transfer the dog, it may be humanely destroyed. The owner of a dog transferred or humanely destroyed shall remain liable for all expenses incurred by the Town for treatment, boarding and care of the dog for the duration of its impoundment, and any expenses associated with its transfer or humane disposal.

- D. **Rabies Suspect.** The procedures provided in this section shall only apply if the dog is not a rabies suspect. If an official designated by the Selectboard to enforce the provisions of this ordinance determines that the dog is a rabies suspect, the Selectboard shall immediately notify the Town Health Officer who shall proceed in accordance with the Vermont Department of Health's rules.

SECTION 9. INVESTIGATION OF VICIOUS DOGS.

- A. **Complaint.** When a dog has bitten a person while the dog is off or on the premises of its owner or keeper, and the person bitten requires medical attention for the attack, such person may file a written complaint with the Selectboard of the municipality. 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.
- B. **Investigation and Hearing.** The Selectboard, within seven (7) calendar 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 a copy of the complaint.
- C. **Protective Order.** If, after a hearing on the matter, the dog 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 dog is disposed of in a humane way, muzzled, chained, or confined. The order shall be sent by certified mail, return receipt requested, to the owner. 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. § 3550.

D. **Rabies suspect.** The procedures provided in this section shall only apply if the dog is not a rabies suspect. If a member of the Selectboard or an Enforcement Officer determines that the dog is a rabies suspect, the Selectboard shall immediately notify the Town Health Officer who shall proceed in accordance with the Vermont Department of Health’s rules. If the dog is deemed healthy, the terms and conditions set forth in the Selectboard’s order shall be enforced.

SECTION 11. OTHER LAWS. This ordinance is in addition to all other ordinances of the Town of south Hero and all applicable laws of the State of Vermont. All ordinances or parts of ordinances, resolutions, regulations, or other documents inconsistent with the provisions of this ordinance are hereby repealed to the extent of such inconsistency.

SECTION 12. 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 13. 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.

Adopted this _____ day of _____, 20__.

SIGNATURES:

Adoption History

1. Agenda item at regular Selectboard meeting held on _____.
2. Read and approved at regular/special Selectboard meeting on _____ and entered in the minutes of that meeting which were approved on _____.
3. Posted in public places on _____.
4. Notice of adoption published in the _____ newspaper on _____ with a notice of the right to petition.
5. Other actions [petitions, etc.]