

TOWN OF TINMOUTH DOG ORDINANCE

Section 1.

Pursuant to 20 V.S.A. ss 3549, 24 V.S.A. ss 229I (10) and 24 V.S.A. ss 1971 the following ordinance is promulgated in order to regulate the keeping of dogs in the Town of Tinmouth:

Section 2.

Definitions:

(A) "Dog": Includes both male and female domestic dogs (Canis Familiaris) and wolf-hybrids as defined in 20 V.S.A. s 35a5 (8).

(B) "Dog Creating a Nuisance": A dog which causes damage to personal property; harasses a pedestrian, horse rider, or a bicyclist; obstructs traffic; or otherwise becomes a nuisance or creates a disturbance on public lands or lands other than those belonging to its owners.

(C) "Enforcement Official": Any constable, police officer, pound keeper or any other individual specifically designated by the Select Board to enforce the provisions of this chapter.

(D) "Owner" or "Keeper": Any person, persons, or entity or their agent who owns, harbors, keeps, or permits any dog to be kept in or about their buildings or premises.

(E) "Pound" and "Pound keeper": The pound and pound keeper shall be that place and that person, respectively, designated from time to time by the Select Board of the Town of Tinmouth to detain dogs seized by an enforcement official in the enforcement of this Ordinance.

(F) "Vicious Dog": A dog which causes reasonable fear of bodily injury to any person not 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 on public lands or lands other than those belonging to its owners.

Section 3.

A person shall not permit a dog to create a nuisance as defined in Section 2 (B)

Section 4

A person shall not own or keep a vicious dog as defined in Section 2 (F) except upon such terms and conditions as ordered by the Select Board.

Section 5.

(A) A person who claims that a dog is a "vicious dog" may first attempt to resolve the dispute with the owner of the dog. If the dispute cannot be resolved, or if the victim chooses, he/she may file a written complaint with the Select Board with a copy to the owner of the dog. The Selectboard will schedule a public hearing within two weeks.

(B) A person who claims that a dog is a "dog creating a nuisance" shall first attempt to resolve the dispute with the owner of the dog. If the dispute cannot be resolved by the parties, the animal control officer will be called. He/she will attempt to get the parties to discuss the problem, and come to an amicable resolution. If the dispute still cannot be resolved between the parties, a person who claims that

a dog is a "dog creating a nuisance" may file a complaint with the Select Board with a copy sent to the owner of the dog, and the Selectboard will schedule a hearing within one month. The Selectboard will only hold hearings after all the above remedies have been unsuccessful. It is the intent of this ordinance that Select Board involvement with dog disputes will be the last resort.

(C) The Select Board, upon receiving the complaint, shall investigate the charges and hold a hearing on the matter. The person filing the complaint shall attend the hearing to provide the facts of the case, written evidence, and witnesses to support their claim. In their absence a written complaint may be filed. The complaint shall contain the name, address, and telephone number of the complainant; the time, date, and place of each occurrence relied upon in support of the claim; the name and address of any victim or victims, and any other facts, which may assist the Select Board in conducting the investigation. Complaints regarding "dogs creating a nuisance" must be supported by at least one witness not related to the person filing the complaint (i.e. from a different house hold). If the owner of the dog, which is the subject of the hearing, can be ascertained, the owner shall be provided with a written notice of the time, date, and place of hearing and the nature of the complaint. The dog owner will also bring evidence and witnesses to support his/her case.

(D) Following the hearing, the Select Board shall issue a determination as to whether the dog is a "vicious dog" as defined in Section 2(F) or is a "dog creating a nuisance" as defined in Section 2(B). If a dog is determined to be a "vicious dog" as defined in Section 2(F), the Select Board may issue an order for the protection of persons and/or property as the facts and circumstances of the case may require and levy a fine as described in Section 9(B). If a dog is determined to be a "dog creating a nuisance" as defined in Section 2(B), the Select Board may levy a fine as described in Section 9(B) and order the owner to confine the dog or take other measures to eliminate the nuisance. If the owner or keeper of the dog can be ascertained, the order shall be sent to the owner or keeper by U.S. mail, return receipt requested. The person filing the complaint and the animal control officer shall also be sent a copy of the order.

Section 6.

(A) Upon the filing of a complaint under Section 5(A), an enforcement official may impound a dog which is claimed to be a "vicious dog" pending a determination of the Select Board pursuant to Section 5 (C) if the enforcement official feels there is imminent threat or danger created by the animal.

Section 7.

An enforcement official may enter onto private lands and use all reasonable methods, including the use of tranquilizing and marking apparatus, for catching and impounding dogs claimed to be "vicious" pursuant to Section 5(A) or found to be in violation of this Ordinance following a hearing pursuant to Section 5(C).

Section 8.

In the event that a dog is impounded,

(A) Where a dog is claimed to be a "vicious dog", the owner or keeper shall not remove the dog from the pound except on such terms and conditions as ordered by the Select Board.

(B) The Enforcing Officer shall, within twenty-four (24) hours, give notice to the owner or keeper thereof, either personally or by written notice at the owner or keeper's dwelling. Such notice shall inform the owner or keeper of the nature of the violation(s), the location of the animal(s) and the steps that are necessary to have the Animal(s) returned to the owner or keeper. If the owner of the dog is

unknown, written notice shall be posted for at least three (3) days at three conspicuous places in the Town describing the dog and the place and time of taking.

(C) The owner or keeper of a dog which has been impounded shall not remove such dog from the pound until he or she has paid: the pound keeper's charges for taking and keeping the dog; an impoundment fee to the Town to cover the administrative costs of enforcing this Ordinance, any license fees, and the cost of any immunization or shots as required by law. The Select Board shall set the pound keeper's boarding fee and the impoundment fee.

(D) If, at the expiration of five (5) days from the date of notice to the owner or public posting, a dog shall not have been redeemed, the town shall assume responsibility for the dog and it may be sold, given away or disposed of in such a way as not to become a burden to the town.

(E) Each impoundment fee and any expenses the Town incurs in impounding or keeping any such dog shall be a charge and claim of the Town collectible by action of the Town, against the owner or keeper of such dog, and the Town shall have a lien on such fee and all expenses so incurred.

(F) The Selectboard is empowered to adjust penalties provided for in this ordinance by appropriate resolution. The Selectboard may make such adjustments in said penalties as they deem appropriate and necessary from time to time. Any such resolution shall be attached to this ordinance, as filed, and copies shall be made available with copies of this ordinance.

Section 9.

(A) This Ordinance is designated as a civil ordinance pursuant to 24 V.S.A. s 1971(b)

(B) In cases where violations of this civil ordinance are brought in the Traffic and Municipal Ordinance Bureau by the issuance of a municipal complaint, and where the violation is admitted or not contested, in lieu of the above, the following waiver penalties are imposed:

<u>First violation of the Ordinance</u>	<u>\$50</u>
<u>Second violation of the Ordinance</u>	<u>\$100</u>
<u>Third and subsequent violations</u>	<u>\$150</u>

The oldest violation will be deleted from the Owner's record for the purposes of calculating the penalties set forth if the Owner completes twelve (12) violation free months.

(C) Injunction. In addition to any other remedy provided in this Ordinance or available at law or in equity, the Town, pursuant to 24 V.S.A. s 1974(b), may institute in superior court a suit for an injunction to prevent, restrain, or abate violations of this Ordinance.

Section 10.

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 11.

This Ordinance shall become effective sixty days after adoption as provided in 24 V.S.A. s 1972.
Date of Original adoption - December 12, 1996. Amended May 14, 1998.

Amendments to this Ordinance are hereby adopted this 10th day of June, 2004. (Latest amendments are underlined).

TOWN OF TINMOUTH, VERMONT

SELECT BOARD

Cathy Reynolds

Caleb Scott

Stanley Wilbur