

**TOWN OF MONTGOMERY
DOG ORDINANCE
INCLUDING & WOLF-HYBRIDS**

(Please see separate ordinance on Pit Bulls)

EFFECTIVE DATE
JULY 21, 1980

AMENDED
APRIL 13, 1982
MARCH 18, 1985
JANUARY 21, 2002
SEPTEMBER 6, 2010
OCTOBER 1, 2012

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**TOWN OF MONTGOMERY
DOG ORDINANCE**

SECTION I AUTHORITY

Under the authority granted in 20 V.S.A. §3549 and 24 V.S.A. §2291(10), the Town of Montgomery Selectmen hereby adopts the following civil Ordinance regulating the licensing, keeping, owning, and running at large of dogs, including Wolf-hybrids, within the Town of Montgomery.

SECTION II PURPOSE

This Dog Ordinance is adopted to promote public health and safety by providing for the licensing, keeping, owning, and running at large of dogs, as defined herein, within the Town of Montgomery.

SECTION III DEFINITIONS

1. "At large", means a dog that is off the premises of the owner and not under the control of the owner, either by leash, cord, chain, command, or otherwise.
2. "Dog" means any domestic animal of the canine species including wolf-hybrids.
3. "Animal Control Officer" means the Town Constable or such other person or persons as may be appointed by the legislative body to enforce or execute the provisions of this Ordinance.
4. "Legislative body" means the Montgomery Board of Selectmen.

5. "Owner" means any person or persons, firm, association, or corporation who owns, keeps, or harbors a dog, including any of the above that has actual or constructive possession of the dog. The head of a household having a dog in its possession shall be presumed to be the owner or keeper of such dog.

6. "Poundkeeper" means the Town Constable or such other person or persons as may be appointed by the legislative body to receive maintain and dispose of dogs impounded pursuant to this Ordinance.

7. "Vicious dog" means a dog found to be vicious pursuant to SECTION IV, subsection 10 of this Ordinance.

SECTION IV SPECIFIC PROVISIONS

1. Barking or Howling Dogs

a. No owner may keep a dog(s), which, by frequent or habitual barking, howling or yelping, disturbs the peace or quiet of persons of ordinary sensibility.

b. The Animal Control Officer shall, upon receiving a signed written complaint of the person or persons so disturbed, and after investigation determining that said complaint is substantial, shall issue a written warning in triplicate, to the dog(s) owner. One copy of the warning will be given to the dog(s) owner, one copy will be retained in the Animal Control Officer's records, and one copy will be kept on file in the Town Clerk's Office for a period of one, (1), year from the date of issuance of the warning.

c. Upon receiving a second and subsequent signed written complaint against the same dog(s) within one, (1), year from the issuance of the complaint/warning, the owner shall be fined in accordance with the provisions under SECTION V of this Ordinance, however if the Animal Control Officer finds that the complaint is unsubstantiated, no action shall be taken against the owner.

d. Upon receiving a third and subsequent signed, written complaint against the same dog(s) within one, (1), year from the issuance of the second complaint/fine, the dog shall be impounded and the owner notified in accordance with the provisions under SECTION V of this Ordinance, however if the Animal Control Officer finds that the complaint is unsubstantiated, no action will be taken against the owner.

e. There shall be a minimum of ten, (10), days between the issuance of a signed written complaint/fine against the same dog(s), except for complaints under subsection 10 of this Section, Vicious Dogs.

2. Collar required

a. The owner of a dog(s) shall cause it to wear a collar or harness, and attach thereto a

license tag issued by the Town Clerk.

b. It shall be unlawful for any person other than the Animal Control Officer, a Police Officer or the owner of a dog to remove the license tag from a dog.

c. The Animal Control Officer shall conduct an Annual Dog Census and issue a warning to the owners of all dogs found within the Town of Montgomery that do not have required license tags.

d. If the owner of an unlicensed dog(s) found within the Town of Montgomery that does not have the required license tag attached to a collar or harness does not respond to a warning within ten (10) days, the owner shall be fined and required to license all dogs in accordance with the provisions under SECTION V of this Ordinance.

e. If the owner of an unlicensed dog(s) found within the Town of Montgomery that does not have the required tag attached to a collar or harness does not pay a fine within ten (10) days, the dog(s) shall be impounded in accordance with the provisions under SECTION V of this Ordinance.

3. Dogs at Large

a. The owner of any dog(s) at large which enters the property of another and therein causes property damage or creates a nuisance shall, upon a signed written complaint of the owner or legal occupant of the property and determined by the Animal Control Officer to be a substantial complaint, shall be issued a warning by the Animal Control Officer in accordance with the provisions under SECTION V of this Ordinance.

b. The owner of any dog(s) at large which enters the property of another and therein causes property damage or creates a nuisance shall, upon a second signed written complaint of the owner or legal occupant of the property and determined by the Animal Control Officer to be a substantial complaint, shall be issued a fine by the Animal Control Officer in accordance with the provisions under SECTION V of this Ordinance.

c. The owner of any dog(s) at large within the area of Montgomery Center and Montgomery Village; those designated as Village I on the Town of Montgomery Zoning Map, including the Recreation Center, shall be issued a warning by the Animal Control Officer in accordance with the provisions under SECTION V of this Ordinance.

d. The owner of any dog(s) at large within the area of Montgomery Center and Montgomery Village; those designated as Village I on the Town of Montgomery Zoning Map and including the Recreation Center for a second time shall be issued a fine by the Animal Control Officer in accordance with the provisions under SECTION V of this Ordinance.

e. Any dog(s) that is repeatedly found at large on the property of another or within the area of Montgomery Center and Village including the Recreation Center and whose owner has not paid the fine of a second offense, shall be impounded by the Animal Control Officer and the owner shall be issued a subsequent fine and be responsible for fees to redeem the dog(s) in accordance with the provisions under SECTION V of this Ordinance.

4. Dogs in Heat

a. It shall be the duty of every owner of an un-spayed female dog(s) to keep such dog(s) confined while the dog(s) is in heat.

b. The owner of any female dog(s) in heat, which is found at large within the Town of Montgomery shall be issued a warning by the Animal Control Officer in accordance with the provisions under SECTION V of this Ordinance.

c. The owner of any female dog(s) in heat, which is found at large within the Town of Montgomery for a second time shall be issued a fine by the Animal Control Officer in accordance with the provisions under SECTION V subsection 1, of this Ordinance.

d. Any female dog(s) in heat, which is found at large within the Town of Montgomery, and whose owner has not paid the fine of a second offense shall be impounded by the animal Control Officer and the owner shall be issued a fine and be responsible for fees to redeem the dog(s) in accordance with the provisions under SECTION V subsection 1, of this Ordinance.

5. Dogs Pursuing Deer or Moose; 10 V.S.A. § 4748

a. Dogs that will hunt or pursue deer or moose shall not be permitted by the owner thereof to run at large unaccompanied by said owner.

b. A constable, state game warden, deputy warden, sheriff, deputy sheriff, police officer, or state police officer may kill by shooting with firearms, dogs whether licensed or unlicensed, when in such close pursuit as to endanger the life of a deer or moose, or found in the act of killing, maiming or wounding deer or moose. Provisions of this section shall be subject to the safety zone limitations as set forth in 10 V.S.A. §4710. A warden or other person authorized under this subsection who does not kill a dog under the provisions of this subsection shall if possible, locate the owner of the dog and shall issue a warning that the dog was in violation of this SECTION and 10 V.S.A. §4748, and that each future violation shall result in the owner being fined in accordance with SECTION V of this Ordinance.

c. When a licensed dog is killed pursuant to subsection b. above, the constable, deputy, officer, or warden that killed the dog shall forthwith report the same to the owner of said licensed dog.

d. No person shall have a cause of action against any constable, deputy, officer, or warden exercising the authority herein granted.

6. Dogs which have Bitten Persons

No owner of a dog, after being notified by the animal Control Officer or legislative body, that their dog has bitten any person, shall, without permission of the Town Health Officer, give away, sell, transport, or cause such dog to be transported beyond the limits of the Town of Montgomery, except under the care of a licensed veterinarian.

7. Licensing

a. In accordance with 20 V.S.A. §§3581 & 3582, an owner of a dog more than six months old, shall annually, on or before April 1 cause it to be registered, numbered, described and licensed for one, (1), year from that day in the Town Clerk's office.

b. An owner, or person who keeps or harbors a dog that becomes six, (6), months old after April 1, and is not licensed, shall, within thirty, (30), days obtain a license for the dog.

c. The owner of an unlicensed dog(s) found within the Town of Montgomery shall be issued a warning in accordance with the provisions under SECTION V of this Ordinance.

d. The owner of an unlicensed dog(s) found within the Town of Montgomery who does not respond to a warning within ten (10) days, shall be issued a fine in accordance with the provisions under SECTION V of this Ordinance.

e. If the owner of an unlicensed dog(s) does not pay the fine within ten (10) days, the Animal Control Officer shall impound the dog(s) in accordance with the provisions under SECTION V of this Ordinance.

8. Poundkeeper

a. The legislative body may appoint or contract with the Town Constable or other person or persons to act as Poundkeeper for the Town.

b. The Poundkeeper shall be entitled to a daily fee which will adequately reimburse him or her for the cost of feeding, housing and otherwise maintaining impounded dogs and which is mutually agreeable to by the legislative body and the Poundkeeper, but which in no event shall exceed that which is generally charged by veterinarians, boarding kennels, and others in the area who perform similar services.

9. Records

a. The Animal Control Officer shall make a complete record of each dog impounded

and/or issued a warning or fine against.

b. The record shall show the date, the breed, color, and sex of the dog, whether or not the dog is licensed, and all fines levied.

c. If the dog is licensed, the record shall show the name and address of the owner, and license tag number.

10. Vicious Dogs

a. Upon a signed written complaint to the legislative body that a dog or dogs, unprovoked and while at large, did attack, bite, kill, menace, worry, or wound any person, domestic animal, or fowl, and the Animal Control Officer has determined that the complaint is substantial, the legislative body shall, within five, (5), business days from receipt of the complaint, investigate the complaint and hold a hearing on the matter. 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 legislative body in conducting its investigation into the matter. The owner of the dog or dogs which are the subject of the complaint, if the owner can be determined, shall be notified of the facts of the complaint, time, date, and place of the hearing by certified mail, return receipt requested. A copy of the hearing notice shall also be mailed to the complainant.

b. If the complaint against the dog or dogs is sustained, the legislative body shall declare the dog or dogs to be vicious, fine the owner in accordance with the provisions under SECTION V of this Ordinance, make such order for the protection of persons, domestic animals, and/or fowl as the case may require, and may order:

(1) the owner to physically and/or electronically restrain the dog at all times while outdoors to include chaining or muzzling the vicious dog or dogs,

(2) the Animal Control Officer to have the vicious dog or dogs impounded, or

(3) the Animal Control Officer to have the vicious dog or dogs destroyed.

c. The order shall be sent by certified mail, return receipt requested to the owner, and a copy of the order shall be given to the Enforcement Officer, complainant, and the Town Clerk for filing.

d. A person who, after receiving notice, fails to comply with the terms of the order shall be fined in accordance with the provision under SECTION V of this Ordinance.

11. Winter Dog Control

During the winter months, between October 1st and May 1st of each year, any dog unattended, running free, or seen running free by an authorized Animal Control Officer, shall be impounded and the owner fined in accordance with the provisions under

SECTION V PENALTIES

1. GENERAL VIOLATIONS: (Barking & Howling Dogs, Dogs with no Collar or Tag, Dogs at Large, Dogs in Heat and Un-Licensed Dogs)

1a. WARNINGS:

- a. One warning to the owner of the dog(s) involved
- b. Any un-heeded warning will result in a fine to the owner of the dog(s) involved

1b. FINES:

- a. A fine of fifteen, (\$15), dollars for the first violation
- b. A fine of thirty-five, (\$35), dollars for the second violation within a twelve month period
- c. A fine of sixty-five, (\$65), dollars for the third and subsequent violation with in a twelve month period
- d. Any unpaid fine will result in the impoundment of the dog(s) involved.

2. IMPOUNDED DOGS:

- a. If the owner can be determined, the Animal Control Officer shall notify the owner of each dog that is impounded, and the owner may redeem the dog upon payment to the pound keeper
- b. An impounded dog not redeemed by its owner within five, (5), days of notification of the impoundment may be vaccinated, spayed/neutered, put up for adoption or destroyed by the Poundkeeper
- c. In the event the owner of an impounded dog cannot be ascertained, a description of the dog shall be posted in two, (2), public places within the Town of Montgomery, one of which shall be the Town Clerk's Office, for a period of five, (5), business days. If the owner does not redeem the dog within the five, (5), day period, the Poundkeeper shall vaccinate, spay/neuter and put the dog up for adoption.

3. DOGS PURSUING DEER OR MOOSE:

- a. The owner of dogs found to be in violation of SECTION IV subsection 5.b. of this Ordinance shall be fined not more than two hundred, (\$200), dollars nor less than fifty, (\$50), dollars for each violation.

4. VICIOUS DOGS:

a. Any owner found to be in violation of SECTION IV subsection 10.b. shall be fined an amount not to exceed two hundred, (\$200), dollars.

b. Any person found to be in violation of SECTION IV subsections 10. d., shall be fined an amount not to exceed five hundred, (\$500), dollars.

SECTION VI AMENDMENTS

1. This Ordinance may be amended by a majority vote of the legislative body at any duly warned meeting, providing the subject appears on the agenda for that meeting.

2. Any amendments to this Ordinance shall take effect in accordance with 24 V.S.A. §1971.

SECTION VII APPEALS

1. An owner who has received a complaint against them may request a hearing before the legislative body by filing a request in writing to the Town Clerk no later than twenty (20) days after the date of being notified of the complaint.

2. If the owner makes a timely request for a hearing, the legislative body shall hold a hearing on the matter within fourteen, (14), days of receipt of the request. The owner and complainant shall be notified of the date, time, and place of the hearing by certified mail, return receipt requested.

3. If the owner does not request a hearing in a timely fashion, all rights of a hearing and further appeals are forfeited.

4. After the hearing the legislative body shall affirm or reject the complaint, and notify the owner and complainant of the decision by mail or hand delivery.

5. An owner or complainant aggrieved by the decision of the legislative body following a hearing, may appeal the decision to the Superior Court within thirty, (30), days of receipt of the decision. The Superior Court shall consider the matter de novo.

SECTION VIII EFFECTIVE DATE

1. This Ordinance shall become effective sixty, (60), days after its adoption by the legislative body, unless a petition is filed under 24 V.S.A. §1973, in which case said statute shall govern the taking effect of this Ordinance.

2. A petition, as provided for in 24 V.S.A. §1973, for a vote on the question of disapproving this Ordinance, or amendments thereto, shall be signed by not less than five,

(5), percent of the qualified voters in the Town of Montgomery, and presented to the legislative body or to the Town Clerk within forty four, (44), days following the date of adoption of the Ordinance. If such a petition is properly filed, the legislative body shall call a special meeting within sixty, (60), days from receipt of the petition, or include an article in the warning for the next annual town meeting if the annual town meeting falls within the sixty, (60), day period, to determine whether the voters will disapprove the Ordinance.

SECTION IX ENFORCEMENT

The person or persons appointed by the legislative body to carry out the provisions of this Ordinance shall be designated as the Animal Control Officer.

Section X NOTICE

1. This Ordinance shall be entered into the minutes of the Town records and shall be posted in at least five conspicuous places in Town.
2. The full text of this Ordinance, or a concise summary of it including a statement of purpose, principal provisions, and table of contents or list of section headings, shall be published in a newspaper circulating in the municipality within fourteen, (14), days of it's adoption.
3. A reference to a place within the municipality where the full text may be examined shall be published along with a concise summary. When the text or concise summary of this Ordinance is published, the notice shall explain citizens' rights to petition for a vote on the Ordinance at an annual or special meeting as provided in 24 V.S.A. §1973, and the notice shall also contain the name, address and telephone number of a person with knowledge of, and who is available, to answer questions about this Ordinance.

SECTION XI 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.

Board of Selectmen
Town of Montgomery

Scott Perry - Chairman



Wendy Howard - Vice Chair

Wendy Howard 10/1/12

Mark Brouillette - Road Commissioner

Mark Brouillette 10/1/12

Carol McGregor

Carol McGregor

Susan Regan - Clerk

Susan Regan 10/1-12

Montgomery Town Clerk's Office received for record this 1 day of October 2012

~~10/1/12~~
A.D., 2012 at 9:15 P.M.

Attest: *[Signature]*

1. Agenda item at regular Selectboard meetings held on: Sept. 17, 2012, Oct. 1, 2012

2. Read and approved at regular Selectboard meeting on October 1, 2012.

3. Posted in at least 5 public places on:
Place: Town Office Date: October 2, 2012
Place: Village Post Office Date: October 2, 2012
Place: Center Post Office Date: October 2, 2012
Place: TJ's Quick Stop Date: October 2, 2012
Place: Sylvester's Market Date: October 2, 2012

4. Notice of adoption, published in the County Courier newspaper on October 11, 2012 with a notice of the right to petition. (NLT 14 days after adoption)

5. Other actions [petitions, etc.]
Last day for Petition: November 14, 2012 (NLT 44 days after adoption. If received, Special Meeting must be called within 60 days of receiving the validated petition, or can be an article at Town Meeting if Town Meeting is within the 60 days)

Effective Date: November 30, 2012 (NET 60 Days after adoption)